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THE GIFT OF

Edna Lamprey Stantial

WOMAN'S RIGHTS
COLLECTION

TAXATION OF WOMEN

IN

MASSACHUSETTS.

BY

WILLIAM I. BOWDITCH.

REVISED EDITION.

TAXATION OF WOMEN

IN

MASSACHUSETTS.

BY

WILLIAM I. BOWDITCH.

"Yet some there be that by due steps aspire
To lay their just hands on that golden key,
That opes the palace of eternity:
To such my errand is."

COMUS.

"A frequent recurrence to the fundamental principles of the Constitution and a constant adherence to those of . . . justice . . . are absolutely necessary to preserve the advantages of liberty, and to maintain a free government."

Mass. Declaration of Rights, Art. 18.

CAMBRIDGE:
PRESS OF JOHN WILSON AND SON.
1875.

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TAXATION OF WOMEN.

THE Constitution of 1780 was framed for the people of Massachusetts.

The preamble describes the body politic as "a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good." And it closes with this paragraph:—

"We, therefore, the people of Massachusetts, . . . do agree upon, ordain, and establish the following Declaration of Rights and Frame of Government as the Constitution of the Commonwealth of Massachusetts."

The Declaration of Rights ordains:—

"ART. 4. The people of this Commonwealth have the sole and exclusive right of governing themselves," &c.

"ART. 5. All power residing originally in the people, and being derived from them," &c.

"ART. 7. Government is instituted for the common good; for the protection, safety, prosperity, and happiness of the people; and not for the profit, honor, or private interest of any one man, family, or class of men. Therefore the people alone have an incontestable, unalienable, and indefeasible right to institute government, and to reform, alter, or totally change the same when their protection, safety, prosperity, and happiness require it."

"ART. 8. In order to prevent those who are vested with authority from becoming oppressors, the people have a right, at such periods and in such manner as they shall establish by

their frame of government, to cause their public officers to return to private life, and to fill up vacant places by certain and regular elections and appointments."

"ART. 19. The people have a right, in an orderly and peaceable manner, to assemble to consult upon the common good, give instructions to their representatives, and to request of the legislative body, by the way of addresses, petitions, or remonstrances, redress of the wrongs done them, and of the grievances they suffer."

"ART. 23. No subsidy, charge, tax, impost, or duties ought to be established, fixed, laid, or levied, under any pretext whatsoever, without the consent of the people, or their representatives in the Legislature."

After the Declaration of Rights comes the Frame of Government, wherein "the people inhabiting the territory formerly called the Province of Massachusetts Bay do hereby solemnly and mutually agree with each other to form themselves into a free, sovereign, and independent body politic, or state, by the name of the Commonwealth of Massachusetts."

More than one-half the people were then females.[1] But, in framing the government to carry out the principles of the Declaration of Rights, the right to vote for Senators is limited to "male inhabitants" (Chap. I. sec. 2, § 2); and, though professing a desire to have in the House of Representatives "a representation of the people . . . founded upon the principles of equality" (Chap. I. sec. 3, § 1), our fathers allowed no one to vote for Representative except "male residents" having a certain amount of property.

As only men framed the Constitution, as only men voted on its adoption, and as only men were thus allowed to vote

[1] In 1765 there were 4,705 more white females than males in the Province. (State Census 1865, p. 288.) In 1790 there were 7,910 more white females than males. The sex of the colored inhabitants was not given. It seems clear, therefore, that in 1780 there were more females than males among the people. This excess was less in 1800, 1810, and in 1840 than it was in 1790; but at all other enumerations the excess has been greater. By the last State census (1865) there were 62,420 more females than males. This number has been reduced to 49,793 by the United States census of 1870.

under it, it may possibly be argued that women are not included even under the expression "the people." It may also be said that frequently, where the terms "individual" and "subject" are used, though these terms are also broad enough to include women, they are used in connection with words which imply men to be the individuals or subjects alluded to. These objections, however, have no real force. The first and noblest article of the Declaration of Rights (Part I. art. 1), is "all men are born free and equal," &c. At this time, even in Massachusetts, hundreds of women were actually held in slavery.[1] None of these women had taken any part in the framing or adoption of this Constitution. None were to vote under it; but, nevertheless, Chief Justice Parsons, in delivering the opinion of the Supreme Judicial Court (Winchendon *v.* Hatfield, 4 Mass. Rep. 128), said that "in the first action, involving the right of the master, which came before the Supreme Judicial Court, after the establishment of the Constitution, the judges declared that, by virtue of the first article of the Declaration of Rights, slavery in this State was no more." The court did not hold that all men, according to the words of the article, were free, and that the slavery of all men was ended by the adoption of this article; but that slavery itself, of all mankind, women as well as men, was killed by its

[1] In 1654 there were 2,717 negro slaves in the State 16 years of age and upwards. According to Felt, 640 more should be added for towns not making returns, and 1,132 for that portion of the slave population under 16 years, thus making the total slave population about 4,489. (State Census, 1865, p. 221.)

In 1754, there were 2,570 negro slaves 16 years of age and upwards, not apparently including returns from the counties of Berkshire, Franklin, and Nantucket (ib. and page 234, table 12). In 1765 there were 166 colored persons in two of these counties, and in 1790 there were 515 in all three of them. Disregarding these, however, and merely adding the same per cent as in 1654 to represent the slaves under 16, we have 3,623 as the number of slaves in the State in 1754. The slaves had decreased about one quarter in the previous hundred years. After making allowance for a similar decrease prior to 1780, it would seem to be evident that more than 3,000 slaves certainly were found in Massachusetts at the time of the adoption of the Constitution. Wendell Phillips thinks there could not have been less than 4,000; and a writer in the "Transcript" (Feb. 2, 1875) says 4,377 were freed at the close of the Revolution.

adoption. So Chief Justice Shaw says, it is agreed on all hands that, if not abolished before, slavery "was abolished by the Declaration of Rights." (18 Pick. Rep. 209.)

Our fathers also declared (art. 2): "No subject shall be hurt, molested, or restrained in his person, liberty, or estate for worshipping God in the manner and season most agreeable to the dictates of his own conscience."

Is not the religious freedom of the women of the State as dear to them as that of men? and can there be any doubt whatever that it is as carefully secured to them by this article as it is to men, notwithstanding this use of the word "his"?[1]

But if, in behalf of civil liberty, even the expression "all men" has been decided by the court to be broad enough to include women, and "his" may be construed to mean also "her" in behalf of religious liberty, it would seem to be clear that the rights of women are covered and protected by the broader clauses defining the rights of the people of the State, and this although women had no more voice in the framing or adoption of the Constitution than those women had who were held in slavery, and who nevertheless were set free by its adoption. It would certainly be an amazingly narrow and forced construction of the word "people" which would declare that more than half the population of the State was not to be considered as referred to when the rights of the people are set forth and defined.[2]

There have been various amendments of the Constitu-

[1] In the construction of statutes, the following rules are required to be observed, unless such construction is inconsistent with the manifest intent of the legislature or repugnant to the context of the same statute; that is to say,—

Second, Words importing the masculine gender may be applied to females. (Gen. Stat. c. 3, § 7.)

In the construction of the fundamental law of a State, the rules are even more liberal.

[2] If there were any doubt about the correctness of this conclusion, I could strengthen it almost indefinitely. Do not the constitutional provisions for securing the right of trial by jury and the writ of *habeas corpus*, those which prohibit unreasonable searches and excessive bail, &c., and those which uphold the liberty of the press, &c., apply to women, and secure their rights just as completely as they do those of men? and were they not intended to do so?

tion. By article 3 (adopted April 9, 1821), "male citizens" having certain qualifications, and "no other person," can vote in the election of Governor, Lieutenant-Governor, Senators, and Representatives. Article 16 (adopted May 23, 1855) provides for the choice of Councillors "by the inhabitants qualified to vote for Governor;" that is, by male citizens, and no other persons. By articles 17 and 19 (adopted at the same time) and the laws passed pursuant thereto, male citizens alone can vote in the election of Secretary of State, Treasurer, Auditor, Attorney-General, Sheriffs, Registers of Probate, Commissioners of Insolvency, Clerks of Courts, and District Attorneys (Gen. Stat. c. 10). By article 20 (adopted May 1, 1857), a voter, besides being a male, must thenceforth also "be able to read the Constitution in the English language, and write his name." Articles 21 and 22 (adopted at the same time) provide respectively for a House of Representatives of 240 members, to be apportioned among the counties, and for a Senate of 40 members, to be apportioned among the districts, according to the number of legal voters in the counties and districts respectively, equally, as near as may be, &c. The object of the 23d article is to require of a foreigner two years' residence after naturalization, before he can vote, in addition to other qualifications previously required.

So that male citizens of full age, having certain other qualifications, "and no other persons," can, under the Constitution, vote for Governor, Lieutenant-Governor, Councillors, Senators, Representatives, Secretary of State, Treasurer, Auditor, or Attorney-General; and under the laws framed pursuant to the Constitution, these same persons, and no others, can vote for Sheriffs, Registers of Probate, Clerks of Courts, and District Attorneys. When we reflect that all the Judges, from the Chief Justice down to the petty Justice of the Peace, must be nominated by the Governor and approved by the Council, and the Judges of the Supreme Court (without, however, hearing any argument), have given their opinion that a woman cannot constitutionally be appointed to any judicial office (107 Mass. Rep. 604), it seems clear that the entire government of the State, in

all its branches, executive, legislative, and judicial, — or, in other words, that the entire power of making, interpreting, and executing all the laws which are to affect the persons and property of every woman in the State — are exclusively vested in male citizens or their appointees. If they please to allow women to be appointed on School Committees, they may do so, — it is an act of grace and favor; but the women themselves, though declared capable of performing the duties of the office, are, nevertheless, deemed incapable of voting for persons, even of their own sex, to perform such duties.

How few of us realize the injustice of this condition of things! By the last United States census (1870), the total population of the State is declared to be 1,457,351 persons (Population and Social Statistics, p. 3); and of these only 312,770 are "male citizens"! (Ib. p. 619.) According to our Declaration of Rights (art. 4), "the sole and exclusive right of governing themselves" is vested in the people; and yet, under our laws, more than three-quarters of the people are entirely disfranchised, and have no voice whatever in determining who shall govern them, or by what laws their rights of person and property shall be protected! Does any one object that minors should be excluded, as no one contends that youth of either sex, legally incapable of contracting, should exercise the right of suffrage? But this hardly lessens the injustice. We have 398,157 adult males in the State (ib. 619); and of the whole number of females, 426,326[1] must be of full age, making a total of 824,483 adult people in the State. So that nearly two-thirds of the adult population of the State is disfranchised; and yet, as we have just seen, it is a fundamental idea of our government that the people — not a meagre fraction of it —

[1] By the last United States census there were 703,779 males and 753,572 females in the State. (Ib. p. 606.) "Up to the age of 15 the number of males in the State, at each given period, somewhat exceeds that of the females, except that there are 19 more females than males between the ages of 3 and 4." (See General Remarks on Abstract of the State Census of 1865, p. 287.) Over 15 the females are either equal in number to, or in excess of, the males. If, therefore, of the whole number of males 398,157 were 21 and upwards, we may safely infer that at least 426,326 of the females were 21 and upwards.

has the right to govern the State! The candidate of the Democratic party who received the highest number of votes at the recent election had hardly more votes than the number of disfranchised male adults in the State!

The organization of the General Government is no more favorable to women.

The Senate of the United States is composed of two members from each State, chosen by the legislature thereof (Const. art. 1, sec. 3). So long, therefore, as these legislatures shall continue to be chosen only by male citizens, so long will the United States Senate really represent only male citizens.

The Senate not only has to concur in all legislation, but without its advice and consent no treaty can be made, and it passes upon all nominations for Ambassadors, Public Ministers, Consuls, and Judges of the Supreme Court. It controls, indeed, the appointment of all other officers of the United States whose appointments are not otherwise provided for in the Constitution.

Though Representatives to Congress are required to be "chosen by the people" of the different States, the electors must "have the qualifications requisite for electors of the most numerous branch of the State legislature." (Const. art. 1, sec. 2.) Consequently, only male citizens can vote for Representatives, and the popular branch in Congress represents only them.

By Act of Congress (Feb. 2, 1872), the number of members of the House of Representatives is fixed at 283. Dividing the total population of the States (38,115,641, Census, p. 3), by this number we find 134,684 to be the number of people (men, women, and children) sufficient to entitle a State to one Representative, and we male citizens have just chosen the eleven Representatives to which the State is entitled.[1] By ourselves alone we should be able to choose only two Representatives, with a fraction over, and the remaining nine per-

[1] By Act of Congress (May 30, 1872), nine States with large fractions are authorized to choose an additional Representative, so that the present House contains 292 members. (Rev. Stat. U. S. chap. 2, sec. 20.)

sons whom we have chosen really represent the political power given to us by this fraction, and by the people of the State, whom we please to disfranchise. The women alone are numerous enough to entitle us to send five Representatives, with a yet larger fraction over.

There are in the United States, excluding the Territories (1870), only 8,307,305 male citizens (Census, p. 619). By themselves alone they would be able to choose not over 62 Representatives, or less than one quarter part of the House. Of the remaining 230 members, 140 represent the female population of the States (Census, p. 606), 81 the disfranchised males, and 9 the additional Representatives allowed to certain States by the law of May 30, 1872, and about half of these 9 really represent the power given to the men, by the number of women in those States.

The President is voted for by electors chosen by the several States in such manner as the legislatures thereof may direct. (Const. art. 2, sec. 1.) If these electors are said to be chosen by the people, they are, as in this State (Gen. Stat. c. 9, § 10), nevertheless chosen only by male citizens. If they are appointed by the legislature, as the latter is chosen only by male citizens, the result is the same. In case the electors fail to choose a President, the House of Representatives, representing only male citizens, has power to fill the vacancy. (Amendment, art. 12.) The President thus chosen in either mode has a veto upon all legislation, and wields the whole executive power of the General Government. He is Commander-in-chief of the Army and Navy, and has the sole power of nominating the Judges of the Supreme Court, Ambassadors, &c.

So here, again, the entire power of making, interpreting, and executing all the laws of the United States which can, by any possibility, affect the person and property of every woman in the land are exclusively vested in male citizens or their appointees. If the President please to appoint a woman to be postmistress, he can do so. It is an act of grace which has been gracefully done in several instances; but still it is a mere

act of grace and favor. No woman, no matter what her qualifications for holding office may be, has any right to hold any office which male citizens are legally bound to respect. Who would imagine that this condition of things could exist under a constitution which professes upon its face to be framed by "the people," and to be designed in an especial manner to "establish justice and insure domestic tranquillity," &c.? Does history teach us that we may reasonably hope to see a large disfranchised class receive justice at the hands of its rulers? As Republicans, we fully believe that the ballot in the hands of the people is not only needed to secure them in the enjoyment of their personal and political rights, but it is also the great safety-valve against violence. So long as a man can vote for the redress of his wrongs, and thus get the justice he seeks peacefully, he will not be foolish enough to fight; but, as soon as you deprive him of the power to choose rulers who will make laws for his protection, he will be ready, on any favorable opportunity, to fight for his rights. How, then, can we hope to secure domestic tranquillity so long as we deprive nearly two-thirds of the adult population of the country of all share in its government? When we have really established justice, then, and never before, shall we have really secured domestic tranquillity.

The key-note of our Declaration of Independence is, that governments derive "their just powers from the consent of the governed." This great idea, "the consent of the governed," is the one upon which the whole structure of our government is theoretically built. Prominent among the injuries and usurpations of the King, set forth in the Declaration, "all having," to use its words, "in direct object the establishment of absolute tyranny over these States," is the fact that he has approved acts of Parliament, styled acts of pretended legislation, "for imposing taxes on us without our consent."

Congress has power "to lay and collect taxes, duties, imposts, and excises." (Const. art. I, sec. 8.) Under this grant of power there was collected from the people of the

United States, in the fiscal year ending June 30, 1868, more than $160,000,000; in 1869, more than $176,000,000; in 1870, more than $191,000,000 (Report on Commerce, &c., 1870, p. 662); in 1871, more than $202,000,000; in 1872, more than $212,000,000; and in 1873, more than 184,000,000 (Report, &c., 1873, p. 718). As the last census was taken in 1870, I will especially examine the taxation in 1870. In this year $191,221,768 was collected. (Report, &c., 1870, p. 662.)

These great sums were levied upon all the people, women as well as men, and upon disfranchised male adults as well as male citizens. Whoever consumed any of the articles from which these taxes were raised, paid his or her share of the tax in the enhanced price of the commodity used. Do not the women of the country feel the need of salt as much as men? Do they rely any less than men on the use of coffee, tea,[1] and sugar? Must they not clothe themselves equally with men in woollens, cotton, or silk? If so, then in 1870 the women paid the United States government their full share of more than $115,000,000 raised from these sources. Indeed, if we except tobacco (which yielded through the custom-houses less than $4,000,000) we may go through all the prominent articles of foreign merchandise which entered into consumption in the United States in that year, and we shall find that women cannot possibly escape bearing their full share of the effects of this indirect but very effective taxation.

The total value of the dutiable imports into Massachusetts alone for the year ending June 30, 1870, was $48,239,835. (Table 3, Report, &c., 1870, p. 140.) The average rate of duty on dutiable imports in the country at large during the same time was 47⅞ per cent *ad valorem*. (Report, &c., ib. p. 615.) So that the duties collected in Massachusetts during that year, reckoning them at only 47 per cent, exceeded $21,000,000,[2]

[1] Tea and coffee are now exempt; but probably they will soon be taxed again.

[2] For the year ending June 30, 1873, $20,618,138.85, were collected as duties in Massachusetts. (Report for 1873, table 22, pp. 634, 639.)

or an average of over $14 for each man, woman, and child, and for the women alone about $11,000,000.

It is perfectly safe for me to say, therefore, that Congress taxes the women of Massachusetts millions of dollars every year. According to our Declaration of Independence, they have no just right to do this, unless the women have consented to be thus taxed. Without such consent the mere act of taxation by itself alone is conclusive evidence of "absolute tyranny" on the part of Congress, as much so as any of those acts which the Continental Congress could urge against King George and Parliament.

When have the women given consent to any such taxation? Never, by any vote of their own! Nobody, indeed, has ever dreamed of asking them to say whether they consented or not. Never by their representatives, for the best of all reasons, they have not the slightest power to choose representatives to act for them, in reference to this or any other personal or political rights. The Congress of 1793 passed the Fugitive Slave Bill. In 1790, there were 697,681 slaves in the United States (Census 1870, p. 7), who counted as 418,608 free persons; and allowing one Representative for each thirty thousand free persons (Const. art. 1, sec. 2), these slaves gave the masters at least 11 more votes in the House of Representatives than they were justly entitled to; and perhaps this added influence enabled the slave owners to secure the passage of this law. In 1850, Congress amended the Fugitive Slave Bill, pointing out an easy way in which the claimant might manufacture full and conclusive evidence of the facts needed to make the recapture of slaves easy. In 1840, there were 2,482,661 slaves in the United States (Census 1870, p. 7), who counted as 1,489,596 free persons, and gave the masters 21 votes. When the amended Fugitive Slave Bill came from the Senate, without having been printed, without having been committed, it was read in the House, Sept. 12, 1850; a Northern man moved the previous question, thereby cutting off all possibility of debate, and the bill was passed. But the motion for the previous question, which thus

compelled immediate action, was carried by only 18 majority, the slaves themselves furnishing that number; and, to our everlasting disgrace, one yea vote came from Boston! Did the slaves ever personally consent to the passage of these fugitive slave laws? The idea of asking such consent was never dreamed of. Did they consent by the Representatives whom they thus assisted their masters in choosing, and who so materially aided in passing the law? The idea is absurd. It is actually, as well as legally, true that the slaves had no rights which white men were bound to respect. But if the slaves cannot be considered as consenting to the passage of these fugitive slave laws, either by themselves or by Representatives, even by those Representatives who could only be chosen by their assistance, neither can the women of Massachusetts be considered as consenting to their taxation by Congress, either by themselves or by Representatives, one-half, at least, of whom we male citizens have been enabled to choose only by their assistance. The Representatives in Congress have the actual power to legislate for all persons; but they are chosen by and only truly represent the male citizens of the country.

Soon after the accession of George the Third, he resolved to introduce a new colonial system, one feature of which was, that Parliament was, by its own act, to levy on the Colonies a revenue towards maintaining their military establishment. (8 Bancroft, p. 123.) The plan was first unfolded in the House of Commons by Townshend; but the execution of the design fell to George Grenville, who, dropping all other parts of the plan, proposed to confine the use of the parliamentary revenue to the expenses of the military establishment. The colonists interposed with the argument that, by the theory of the British government, taxation and representation are inseparable correlatives; and Grenville, admitting the justice of their objection, and that taxation of the Colonies ought to be followed by a special colonial representation, passed the Stamp Act, but failed to provide for any such representation.

When he was driven from office, the new ministers had the

option between repealing the tax as an act of justice to the Colonies or repealing it as a measure of expediency to Britain. The first was the choice of Pitt, and its adoption would have ended the controversy; the second was that of Rockingham. He abolished the tax, but, at the same time, declared that the legislative power of Parliament reached to the Colonies in all cases whatsoever. The Colonies denied this unqualified authority of a legislature in which they were not represented; and, although they were told they were as much represented as nine-tenths of the people of Britain, this seemed to them no good reason for submission.

Pursuant to this declared power in Parliament thus to bind the Colonies in all cases whatsoever, a law was proposed by Townshend, and passed, providing for the collection of a tax on tea, glass, paper, and painters' colors, the preamble asserting that "it is expedient that a revenue should be raised in his majesty's dominions in America for defraying the charge of the administration of justice and support of civil government, and towards further defraying the expenses of defending the said dominions." (8 Bancroft, p. 126, &c.) Grenville had proposed taxes for the defence of the Colonies; at the same time admitting that even this taxation should entitle them to representation in Parliament. This preamble of Townshend, however, promised an ever-increasing American civil list, independent of American assemblies, to be disposed of by ministers, at their discretion, for salaries, gifts, or pensions, and without any representation in Parliament.

The Colonies were unanimous in resisting the innovation, and at once avoided the taxes by agreements to stop imports from Britain. The government gave way, and repealed all Townshend's taxes, except on tea. Lord North maintained that this duty was no innovation, but a reduction of the ancient duty of a shilling a pound to one of threepence only, and that the change of the place where the duty was to be collected was no more than a regulation of trade to prevent smuggling tea from Holland. The statement, so far as the tax was concerned, was unanswerable; but the sting of the Tax Act lay

in its preamble. Rockingham's declaratory act affirmed the power of Parliament in all cases whatsoever; and Townshend's preamble declared the expediency of using that power to raise a very large colonial revenue. Still collision was practically averted; for the Americans, in their desire for peace, gave up the importation of tea. No revenue, therefore, was collected; and, as Bancroft says (ib. p. 127), "by resolute self-denial, the Colonies escaped the mark of the brand which was to show whose property they were."

At this, the King, against the opinion of Lord North, and of the East India Company, directed that company itself to export tea to America, and there to pay the duty, hoping that a low price would tempt the Americans to buy. But the colonists would not suffer the tea to be exposed for sale; the Crown officers yielded to their unanimous resistance everywhere except at Boston; and there 340 chests of tea were thrown overboard.[1] Singularly enough, Mr. Quincy says of this act: "All was conducted with order and perfect submission to government. It was a bright moonlight evening, and the British squadron lay near; yet there was no interruption from the fleet or the troops!" (Memoir of Josiah Quincy, Jr., p. 126.)

In other words, our fathers denied the right of King and Parliament to tax them in any case whatever without their consent, or the consent of their Representatives. In their opinion, it made no difference if they were as much represented in Parliament as nine-tenths of the people of Britain. Because nine-tenths of the people of England were wronged seemed to them, and really was, no reason why the rights of the colonists should be invaded. Neither did it make any difference for what purpose the tax was levied. The colonists denied the right to tax them even for their own military de-

[1] I have condensed my account of the taxation of the Colonies from Mr. Bancroft's most admirable history of the transaction, generally using his very words. Supposing the chests to have contained 100 pounds each (which I am advised by a tea merchant is a large estimate), the tax on this tea, if paid, would have amounted to £425. In the year ending June 30, 1870, more than $10,000,000 was collected from the duty on tea alone (Report, &c., table 17, p. 608), and more than $800,000 of the amount was collected in Boston. (Ib. table 3, p. 130.)

fence; much more strenuously did they resist any and all taxation which was directly calculated to place their judges and civil magistrates beyond their own control, by giving ministers in England the power of establishing and paying their salaries. The colonists preferred to judge for themselves whether the taxes to be levied here were or were not really for their own benefit, and insisted on the right to pay the salaries of their own officers. They could not even be bribed into silently admitting the principle that taxation without representation could ever be less than simple tyranny. They would drink no tea, the cost of which was enhanced by any tax, however small, levied by Parliament. In their judgment, it was a tyrannical act for Parliament to tax them a shilling a pound for tea, and no less an act of tyranny to tax only threepence. In behalf of a principle so essential to the preservation of their liberties, they were ready to cavil about the ninth part of a hair.[1]

The women of Massachusetts, like the colonists one hundred years ago, are taxed every year by Congress millions of dollars, without either their consent or the consent of their Representatives. We may say to them, as King George's ministers said to the colonists, You are as much represented in Congress as the 85,387 adult males in the State who are also disfranchised. (Census, p. 619.) They will reply, Because you have wronged other people is no reason why you should tyrannize over us; and these men may, if they please, all become voters, — we cannot. We may again say to them, We tax you, as the Constitution authorizes us to do, "for the common defence and general welfare of the United States." (Const. art. 1, sec. 8.) They will reply, We prefer to judge for ourselves about what is or is not for the general welfare. We utterly deny your right to take our property for any purposes,

[1] John Wingate Thornton, in his very valuable pamphlet on the Historical Relation of New England to the English Commonwealth (p. 51, note), remarks, "The colonists said if Parliament could tax us, they could establish the Church of England, with its creeds, titles, and ceremonies, and prohibit all other churches as conventicles and schism shops."

See also votes of Brookline town meeting at the end of this pamphlet.

unless we deem it to be for the general welfare. And what must we answer to these replies? What can we answer? Can we do any thing more than admit the fact, that, whether we judge of the rightfulness of the taxation of women by Congress, by the principles acted upon by our fathers at the risk of their lives, or the principles which we have ourselves adopted in our fundamental law, every such act is one of simple tyranny? Taxation without representation is tyranny, according to the principles of the fathers and the Declaration of Independence, though the persons taxed be women. Our fathers risked death rather than pay a tax of threepence a pound on tea. We, their sons, have taxed the women of the land 25 cents for every pound of tea they consumed. If our fathers were right in resisting the attempt to extract a miserable threepence, what must we think of ourselves?

It was possible, by resolute self-denial in the use of tea, for the colonists to avoid admitting the right of Parliament to tax them. But the women of Massachusetts to-day cannot thus escape the taxation imposed by Congress. Even water is enhanced in its cost by the taxes levied on the iron, tin, or lead which enters into the construction of the pipes or pumps from which it must be drawn. Incredible as it may seem, and foolish as it is, even bread, butter, flour, potatoes, &c., all are taxed. It is difficult, indeed, to find what is not taxed. Within the limits marked out by the Constitution, Congress, like Parliament, claims the right to tax women generally. By no self-denying ordinance can they possibly escape the effect of this taxation. The colonists could escape the mark of the brand which served to show whose property they were. But the women of to-day cannot thus escape. It was a very ignoble sort of man who said of his wife, —

> "I will be master of what is mine own:
> She is my goods, my chattel; she is my house,
> My household stuff, my field, my barn,
> My horse, my ox, my ass," &c.

This is not a mere picture of the imagination. In some parts of Europe we may see, even at this day, a man driving

his wife and donkey yoked or harnessed together; sometimes, it is said, he even rides in the cart himself! Many of us every year go abroad, and fall into raptures over the Dresden Madonna, and feel unbounded astonishment at the barbaric treatment of the peasant women. But, nevertheless, we men in America practise a form of tyranny over our own women which we cannot help admitting to be unjust, without repudiating our own principles, and which we cannot help admitting to be mean, unless we think it generous to save our own money by seizing that of a woman without her consent. We are far too civilized to harness our women, but not at all unwilling to imprison them if they do not quietly submit to our tyranny. (Gen. Stat. c. 12, § 13.)

It is barely possible, if women were really represented in Congress, and could themselves pass upon the nomination of civil and judicial officers, and vote to raise or reduce salaries, that the government of the country would begin to remember that it springs from the people, and that half the people are women. Perhaps the representatives of women on the floor of Congress, at some future day, seeing the enormous benefit resulting from unrestricted free trade across the Mississippi, the Ohio, and the Hudson, will fail to see why the same result should not follow from free trade across the St. Lawrence; or, if free trade east and west across Lake Michigan is an unmixed blessing, — not to five States, merely, but to the whole Union, — why free trade north and south across Lakes Superior, Erie, and Ontario will not be equally a blessing; or why, indeed, free trade across the oceans should not do more to advance the peace, and therefore the well-being, of the human race, here as well as abroad, than all the standing armies, forts, arsenals, and custom-houses that have ever been or will be built, can ever accomplish.

Besides the indirect taxation [1] of the women of Massachu-

[1] I have not alluded to the taxation of women through the internal revenue department, because the evidence is merely cumulative, and the taxes which probably bear on them most have been repealed.

During the year ending June 30, 1873, there was collected in Massachusetts, from spirits, $1,674,276.65; from tobacco, $537,471.61; from fermented liquors,

setts by the General Government, — a taxation which the very rich are obliged to submit to, and the very poor cannot escape, — all those who have a certain amount of property are directly taxed here. Each year a state, county, and town or city tax is levied on them.

In 1871, the House of Representatives directed the Tax Commissioner to ascertain and report to the Legislature the number of females taxed directly, those who had property taxed to husbands, guardians, or trustees, and also the corporation taxes paid by them. The Report (House Document, No. 428) states that 33,961 women were taxed, and that they paid $1,927,653.11. (Ib. p. 25.) The whole tax raised that year (Aggregate of Polls, Property, Taxes, &c., assessed May, 1871, p. 25) was $22,063,946. So that in 1871 the women paid more than one-twelfth of all the sums raised by taxation in all the towns and cities of the Commonwealth. Of the whole sum thus raised, $782,753 (Aggregate, &c., p. 25) was assessed upon polls. Deducting this, it appears that the women really paid very nearly one-eleventh of the entire tax on property in 1871. (See note at end of the pamphlet.)

In his preface to this Report, Charles Adams, Jr., the tax commissioner, says (ib. p. 1): "It is probable that the amount returned is considerably less than that actually held by the classes of persons to whom the order relates," but that the total number of females holding property "may be overstated," as he had no means of comparing the names of those locally taxed with the names of stockholders in corporations, without a delay and an expense considered unnecessary for the purposes of the return.

$638,976.51; from banks and bankers, $316,095.13; and from incomes, $392,387.45; besides other amounts from other sources, — the whole amount being $3,669,950.66. (Report of Comm. of Int. Rev. 1873, pp. 75, 80, 85, 95.)

The whole amount collected through this department in Massachusetts alone from 1863 to 1873, both inclusive, was $159,930,259.88 (ib. 145); and the aggregate receipts during the same years from all the States and Territories was $1,872,419,285.03 (ib. 153); the total collections from taxes on incomes, dividends, legacies, and successions alone during the same years being $361,573,995.67 (ib. 165). Of this latter sum women could not help paying their full share.

From this Report it seems that women were taxed more or less in every city, and in all the towns except Gay Head and Gosnold. In these places there were only 64 polls (Aggregate, &c., p. 8), and the valuation was only $178,770, or $\frac{1}{8875}$ of the valuation of the State. This document, therefore, clearly proves that the taxation of women is, practically speaking, universal through the State.

When I began my researches on this subject I was not aware of the existence of this Report. Accordingly, having found that the total tax in 1873 was $25,153,399 (Aggregate Polls, &c., 1873, p. 27), I sent a printed postal card directed to the assessors of every town and city[1] in the Commonwealth, desiring information as to how much of this sum was paid by women. I have received returns from 163 out of 342[2] places, or nearly one-half of the whole number. In many of the places the assessors have given me the results of their labor gratuitously, for which I render my hearty thanks; I have, however, in every case paid what has been asked for the time and labor expended in getting the information; and having, in years gone by, been an assessor myself, I am free to say that the sums charged have generally seemed to me to be reasonable for the services rendered. Still, the fact remains true, that the assessors in about 176 cities and towns felt too

[1] Except Boston. Here I employed Mr. George E. Richardson, one of the clerks of the assessors. By accident he examined the books for 1874 instead of 1873. This of course, embraced the valuation of Charlestown, Brighton, and West Roxbury. The examination involved great labor and care on his part, and expense on mine. My returns from East Bridgewater, Dracut, Deerfield, and Templeton are also for 1874; but it hardly seemed worth while to go over the ground again in these places in order to obtain returns for 1873. The difference between the two years cannot be material, — it is a gain of only about 33,000,000 in 1,700,000,000.

Mr. Richardson writes to me that his returns "do not include any property held by executors of estates of females or property taxed in name of heirs (viz. Mary Brown's heirs), or trustees or executors under the will of females, but only includes property taxed directly to females, or as trustees or guardians of females." So that the sum stated in my tables as paid in Boston must be much less than the amount really paid by women; and this is half as much again as the sum stated in the Report of 1871.

[2] 339 after the recent annexations to Boston.

little interest in the matter even to be willing to take the trouble to tell me for what sum I could get the information I desired.

In the 163 places from which I have received returns, the whole tax paid was $21,089,409, or more than four-fifths of the whole sum raised in the State. If from this sum we deduct $526,604 paid by polls, we have $20,562,805 as the whole tax on property in these places. Of this latter sum, the women paid $1,966,601, or .095 per cent. We may, therefore, from these returns, and from those of 1871, consider it as clearly proved that the women of the State, taken as a whole, pay certainly one-eleventh, and probably one-tenth, or even more, of all the tax on property in the State.

Disregarding the 21 towns from which I have no returns as to the number of women taxed, I find that 18,775 women paid $1,934,638 in taxes, or an average of $103 and the equivalent of 51 polls for each woman. The cities of Boston, Chelsea, and Newton, and the town of Brookline, all clustered together, paid $13,079,436, or more than one-half the whole tax of the State. Of this sum ($13,079,436) 8,447 women paid $1,448,479, or a little more than one-tenth of the whole tax, — being an average of $171, and the equivalent of 85 polls for each woman.

Each of the 7,214 women taxed in Boston paid an average of $179, or the equivalent of 89 polls; and together they paid more than nine times as much as was paid by the 66,415 men in the city who only paid a poll-tax, and more than ninety times as much as was paid by the 7,032 poll-tax voters who no doubt elected Governor Gaston. In Milford, 244 women were taxed, and 1,513 men paid a poll-tax only; and the women paid nearly three times as much as the men. In Cheshire, 26 women were taxed, and they paid eleven times as much as 152 of the men in town. In Templeton, 14 women paid more than 312 of the men. In Leominster, 13 women paid more than 628 of the men. In Barre, 12 women paid more than 249 of the men. In Westboro', 11 women paid more than 505 men. Eight women in Kingston paid more than 129

men; in Medway, more than 387 men; in Needham, more than 566 men; in Wakefield, more than 600 men; in Waltham, more than 1,103 men; and in Adams, the equivalent of 1,120 polls. Seven women in Dighton paid more than 128 men. Six women in Gardner paid more than 100 men; and in Newton, more than 3,659 polls. In Hubbardston, 5 women paid more than 72 men; and in Bellingham, more than 110 men. Four women in Swanzey paid more than 78 of the men; in Dudley, more than 170 men; in Holden, more than 220 men; in Deerfield, more than 295 men; in Rockport, more than 301 men; and in Spencer, more than 620 men. There were 3 women in Newton who paid more tax than 2,034 men in that city; two of the women in Northboro' paid as much as 113 men; in Petersham, twice as much as 67 men; and in Swampscott, nearly twice as much as 274 of the men. A single woman tax-payer in Dighton paid as much as 36 of the men; in Lakeville, as much as 52 of the men; in Petersham, 50 per cent more than 67 men in town; and in Deerfield, as much as 141 of the men; in Shrewsbury, there were 116 men who only paid a poll-tax, and one woman paid twice as much as the whole of them. In Newton, one woman paid as much tax as 1,424 of the men. In Brookline, there were 921 men who only paid a poll-tax; and one woman in town paid more than three times, and another more than six times as much tax as was paid by the whole of these 921 men! There are 92 scholarships in Harvard College for the aid of poor students; the total income is about $21,000. It was a man who planned 22 of these scholarships, which yield more than one-quarter of the income derived from the whole 92; but the money by which they were established came, in point of fact, from a woman tax-payer. No young woman of the State, no matter how scholarly she may be, can, however, hope to receive any aid from the bounty of this large-hearted woman. A subscription has just been started for a new medical school building to be connected with the College. Out of $100,700 first published as subscribed, $30,500 was contributed by women, and the largest single

subscription ($20,000) was by a woman tax-payer. May we not reasonably hope, therefore, that Harvard College will yet open its doors to women, when it is thus willing to receive their money? It seems mean to exclude them from all use of the educational advantages which have been accumulating at Cambridge for over two centuries, and at the same time to urge them to contribute to increase these advantages. It does not seem to be impossible to educate female physicians in Paris, Zurich, in Boston University, or in other places. Why is it impossible in Harvard? And yet about all that Harvard can now do for the higher education of women is to be willing to certify, after an examination, that they have been able to obtain a good education elsewhere!

I have annexed to this pamphlet eight tables prepared from returns made to me, and from the votes at the last election, as stated in the "Daily Evening Transcript" (Nov. 4, 1874). I have also added two columns taken from the Report of 1871. Although the returns of the number of men who only paid a poll-tax, and the pluralities for Governor at the last election, are not, as will be seen, entirely complete in these tables, they are probably sufficiently so for my purposes.

Only 185,990 men voted for Governor last autumn (Official Vote, "Boston Daily Advertiser," Nov. 23, 1874); 147,433 men paid only a poll-tax, 66,415 of them being in Boston; and Governor Gaston's plurality in the State was 7,032 (ib.). On the principle that a chain is only as strong as its weakest link, it seems clear, therefore, that the last election was carried by poll-tax voters. Indeed, practically speaking, men who only pay $2.00 tax (and frequently even this tax is paid for them by others) make and unmake the Government. These 147,433 men paid $294,866 The 18,775 women paid more than six times as much. It will doubtless be said that some of the poll-tax payers were minors, some aliens, and some perhaps were disqualified to vote from inability to read and write. Still, minors will finally become of age, aliens may become naturalized, and those who are ignorant may learn to write their names and to read the Constitution in English (a thing

which nine-tenths of the men who vote have never done), and thus all these men have it in their power to become voters if they please; but none of the women, who do more than six times as much as these men towards supporting the expenses of government, have any possible chance of becoming voters without a change in the law.

If the women thus taxed were allowed to vote, they are numerous enough, even now, to be of political importance. According to the Report of 1871, the women tax-payers could have overcome Governor Gaston's plurality four times, and that of Lieutenant-Governor Knight twice, and in both cases have had votes to spare. They would not have wished to do so; but, if they had desired, they could easily enough have defeated the election of the Secretary, the Treasurer, the Auditor, and the Attorney-General, though each of these officers had over 21,000 plurality.

If it be suggested that the Report of 1871 cannot be implicitly relied on as to the number of women taxed, I would

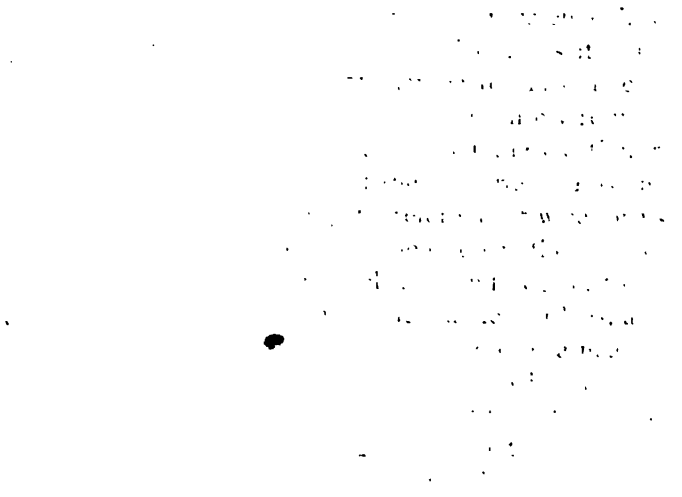
votes; but in 158 places the women were numerous enough to have controlled the election for Representatives! Is it again suggested that this Report of 1871 may be too favorable to women on this point, I would say that even from my returns it is evident that they could have controlled the election in 65 towns and cities,[1] and in 10 out of the 21 wards in Boston! As a mere question of expediency, therefore, is it wise for us to rely, as we now do, for our government upon the class of voters most easily influenced or purchased, and neglect those who pay more than one-eleventh of the public burdens, and who thus would have it in their power to exercise a marked and beneficent influence on our politics? Of what incalculable importance it would be for the welfare of the State to be able to control or materially influence for good the choice of Representatives in such towns as Waltham, Marblehead, Milford, Brookline, Clinton, Framingham, Wakefield, Swamp-

One eminent man in this neighborhood, who has been Governor, saved over $900 in this way in 1873. Another, who has been candidate for Governor, saved, in the same year, in this way, over $1,000 in the taxes on his property in two adjoining places. The former is an advocate of woman suffrage; the latter is believed to be willing to give the suffrage to women who own property now, but not to favor extending it to those who merely earn their living from day to day, though these latter would seem to deserve and need it most.

In April next the people of Concord and neighboring towns intend to unite in celebrating the fight at the old North Bridge, where

> "once the embattled farmers stood,
> And fired the shot heard round the world!"

A bronze statue of a minute-man, of life size, is to be dedicated with appropriate ceremonies; and the Committee of Arrangements have prepared a programme, including an oration by George William Curtis, poems by Emerson, Longfellow, and Lowell, and a monster procession. The President and his Cabinet, the Governor, Council, and Legislature, the Corporation and Faculty of Harvard College, and the Governors of the New England States have been or are to be invited,



He can prove beyond all doubt that they have saved enough to pay for the statue, as they save about $7,000 a year (Rep. 1871). Is it probable that Mr. Emerson, in his poem, will call to mind the fact that he and other Concord men of property and influence have been spared every year about one-fifth of their taxes, owing solely to the fact that the women of Concord are treated in the very same way

> "that made those heroes dare
> To die, or leave their children free"?

We are inclined to think neither of them will make any such allusions. It might cause confusion on the faces of the Committee of Arrangements. Nevertheless, we will venture to ask Mr. Emerson to recite on that occasion William Allingham's poem, "The Touchstone," as he did years since in Boston, and as only he can recite it; and then let him try to explain to his audience, if he can, why it is that woman suffrage is not now, as anti-slavery used to be, the touchstone to test

> "all things in the land
> By its unerring spell."

Would it not be a far more fitting celebration of the Concord fight for us to shape our lives to-day according to the noble principles of our fathers, rather than to call attention to our degeneracy by erecting a monument in honor of their nobility? But, if we must have a statue, let it be of brass, and on the stone-base let us have some appropriate bass-reliefs. One may illustrate the sale of Abby Smith's cows, and the reverse the quite likely taking to jail of Abby Foster, each for the non-payment of taxes. One might show Josiah Quincy, Jr., denouncing to the citizens of Boston, from the gallery of Old South Church, the taxation of men without representation as tyranny; and the reverse might appropriately enough show their townsman, Judge Hoar, and his associates, declaring that to tax a woman who is disfranchised is in accordance with an express authority conferred by our Constitution!

Considering the great disproportion between the wages paid to women and those paid to men for equally good services, and taking into account the opportunities afforded them, it seems to me that the women of Massachusetts do their full share in producing the wealth of the State. According to the census of 1870, the total product of the manufactures of the State was $553,912,568. (Census 1870, Industry and Wealth, p. 528.) The tables there given embrace 142 branches of industry. In three of them the sex of the operatives is not stated, and the "youth" employed in all of them are not classified. Only women aged 15 and over, and men aged 16 and over are enumerated. There are eight branches, each producing over ten millions of dollars, the products of which amount to $276,257,604; and women are engaged in all, the whole number of women being 52,724, and the whole number of men 79,285. More than twice as many women as men are engaged in the manufacture of men's clothing, and nearly double as many women as men are occupied in the manufacture of cotton goods; and cotton manufactures stand second on the list in point of value to the State of the articles produced. Over ten thousand women are engaged in the manufacture of boots and shoes, and over seven thousand in making

woollen goods. Eleven women are even engaged in some part of the work of currying leather. Out of 66 branches, each producing over one and less than ten millions of dollars, women are engaged in 52. Out of 65 branches, each producing less than one million of dollars, women are engaged in 43; the total production in 139 branches of industry being $494,881,855, and the producers being 153,945 men and 84,672 women.

If the women of the State, in point of fact, do so much towards creating the wealth of the State; if, in point of fact, they own about one-tenth [1] of the property of the State; if the law recognizes their ability to earn, hold, and convey property; and if these women are numerous and scattered enough to be able to give a very important and useful aid, even now, in the proper government of the State, — as a mere question of expediency, why should not the right of suffrage be granted to them, especially if by so doing we men escape the great scandal of selling our principles for money? Surely, if we give them the right to acquire property, we ought also to give them the same rights to protect their property that we ourselves enjoy and deem essential. Who of us would consider his property safe without the right of suffrage? What would we give for the security of our personal rights, if we were deprived of the ballot? If, in our judgment, the rights of negro men could only be secured to them by giving them suffrage, although they were most eminently unqualified for the judicious exercise of the right; if we instinctively feel that without suffrage our own rights could hardly fail to be invaded, — with what face can we assert that the women of the State have any sufficient security for their personal or property rights, so long as they are deprived of suffrage? Does any one object that suffrage is a manly right, and conferred only on those who are able to fight? We deny the fact altogether.

[1] So long as the Statute of Distributions divides the property of every person who dies intestate equally among his children, daughters and sons alike, and the females, as they always have been, shall continue to be more numerous than the males, it would seem to be clear that this fraction is altogether too low.

On the contrary, the very men who are best able to fight are not allowed to vote. In 1870, there were 298,767 males in the State between 18 and 45. (Census, Population, &c., p. 619.) This represents the fighting power of the State. Deducting from this number those who were over 18 and under 21, or 41,317,[1] leaves 257,450 as the number of males over 21 and under 45. This number (257,450), therefore, includes all voters who are supposed to be able to fight, or who are liable to be even enrolled for military duty. (Gen. Stat. c. 13, § 1.) The whole number of male citizens in the State being 312,770 (Census, &c., p. 619), it follows that 55,320 of the voters, or over one-sixth, are altogether exempt from military duty. The 41,317 young men, though physically peculiarly fitted for military duty, are not allowed to vote, because they are minors. Of the 257,450, only those who are "able-bodied" are liable even to be enrolled. (Gen. Stat. c. 13, § 1.) Those who are enrolled are "subject to no active duty, except in case of war, invasion, the prevention of invasion, the suppression of riots, and to aid civil officers in the execution of the laws;" and the active militia is not intended to exceed 5,000 officers and men.[2] (Ib. § 4, 14.) So that, so far from the right of suffrage being based upon the supposed power of voters to fight, one-sixth of those who have the right to vote are not supposed to be able to fight at all; and of the five-sixths only about $\frac{1}{40}$ are reckoned as active militia, and those of the $\frac{39}{40}$ who are able-bodied are only liable to be called out in a remote contingency. But even if it were true, as it is not, that some sort of military service ought to be considered as due from voters generally, why cannot women buy substitutes, as they were allowed to do in the Rebellion,

[1] Number of males between 18 and 45 298,767
Deduct males over 18 and under 21 by last State Census (p. 3);
i. e. $\frac{2}{5}$ of those between 15 and 20 22,112
$\frac{1}{5}$ „ „ „ 20 and 30 19,205
41,317
leaves as over 21 and under 45 liable to do military duty (approx.) 257,450

[2] The active militia now numbers 436 officers and 6,054 enlisted men; the enrolled militia, 212,147.

or pay an equivalent, or be exempted like Quakers or ministers, or act as nurses, or be employed in the manufacture or repair of clothing? Or why, if (as the last census proves), in time of peace, nearly as many women as men can be employed in the manufacture of ammunition cartridges (Census, Industry, &c., p. 394), or one-third as many in making tents; if, in time of peace, women may be blacksmiths or butchers, or engage in the manufacture of cutlery, edge-tools, and axes, or in the manufacture of gunpowder, fire-arms, percussion caps, &c., — why, in the name of common sense, cannot their labor be utilized in the same or some similar way in time of war? In every town of the Commonwealth a tax is levied for the support of highways. Down to 1871, this tax might be paid "in labor and materials" or in "money," as the town determined (Gen. Stat. c. 44, § 3 and 4; Stat. 1871, c. 298); but, without a special vote that the tax should be paid in money, whoever was assessed a highway tax, woman or man, was obliged to work it out. And if women can work out a highway tax, with horse and cart or spade and pickaxe, why cannot she work for the government in time of war? And, if she can do one kind of work by deputy, why not the other? It is not, however, true that the right of suffrage for men is based in the slightest degree upon their supposed ability to fight. At the same time, I admit and rejoice in the fact that one of the greatest blessings we expect to flow from woman suffrage will be the cultivation of the arts of peace rather than war.

But aside from and beyond all the considerations that have hitherto been urged against the direct taxation of women, we deny the right thus to tax them.

By the Constitution (part 2, ch. 1, art. 4) the General Court has, it is true, power to impose and levy proportional and reasonable assessments, rates, and taxes upon all the inhabitants of and persons resident and estates lying within the said Commonwealth;" but the Bill of Rights (art. 23) declares that "no subsidy, charge, tax, impost, or duties ought to be established, fixed, laid, or levied under any pretext what-

soever, without the consent of the people or their representatives in the Legislature."

Miss Sarah E. Wall, duly qualified to vote in every respect, except sex, was taxed in Worcester, and refused to pay her tax. No report is given of any argument in the Supreme Court on either side. She appeared for herself, and W. A. Williams for the collector. The whole opinion of the Court is contained in these two short paragraphs: —

"By the Constitution of Mass. ch. 1, sec. 1, art. 4, the Legislature have power to impose taxes upon all the inhabitants of and persons resident and estates lying within the said Commonwealth. By the laws passed by the Legislature in pursuance of this power and authority, the defendant is liable to taxation, although she is not qualified to vote for the officers by whom the taxes were assessed.

"The Court, acting under the Constitution, and bound to support it and maintain its provisions faithfully, cannot declare null and void a statute which has been passed by the Legislature in pursuance of an express authority conferred by the Constitution." (Wheeler *v.* Wall, 6 Allen Rep. 558.)

In other words, our Supreme Court[1] holds that the taxation of women without representation is in accordance with an express authority conferred by our Constitution.

Strangely enough, the Court does not allude to the Declaration of Rights. But is it not clear that both the clauses in the Constitution which bear on the question of taxation should be considered together? I respectfully submit that the Legislature has not unlimited power to tax all inhabitants and persons resident in the Commonwealth. It only has the right to tax them so far as such taxation is consistent with the Declaration of Rights, and no farther. It has no right, "under any pretext whatsoever," to go beyond the limit marked out by the Declaration of Rights; and, if it does go beyond this point, it becomes the duty of the Court to pronounce the statute null and void. The Legislature is as much bound to respect the Declaration of Rights as any other part of our Constitution.

[1] No one of the judges who made this decision is now on the bench.

And, to use the grand words of Chief Justice Parker (2 Pick. 557), "neither will any course of years or legislative acts or judicial decisions sanction any apparent violation of the fundamental law clearly expressed or necessarily understood."

Taking, therefore, the clause in the Constitution which confers the power to levy taxes, in connection with the clause which limits the power to tax, and construing them together as they should be, so that each of them may have its due force and operation, the Legislature has the power to tax those inhabitants or persons resident here who consent to such taxation, either personally or through their representatives; and we deny the constitutional right to tax anybody else.

The supposed intention of the framers of a written instrument has, and, properly enough, ought to have, very little weight with us in determining its meaning. Such meaning is to be sought in the words used, and not in outside evidence. Still, I confess, at the outset, it does seem to me a most unlikely thing that the men of Massachusetts who were then in the middle of a hot fight, undertaken in defence of the principle that taxation without representation was tyranny, would wholly overlook the principle when undertaking to define the rights which they deemed most essential to their own security. And yet they must have made this strange omission, if it be true, as the Court says, that women born and brought up on Massachusetts soil, and qualified to vote in all other respects, as Miss Wall was, can be disfranchised, and at the same time be constitutionally taxed.

All women born on Massachusetts soil are Massachusetts citizens, and bound to bear true faith and allegiance to the Commonwealth; and the latter is bound to protect them in the enjoyment of their rights to life, liberty, and property, just as fully as male citizens are protected. In Lynch *v.* Clarke (1 Sandford Ch. 584–639, as quoted 2 Kent Comm., p. 1, note), it was held, "that the complainant, who was born in New York of alien parents during their temporary sojourn there, and returned while an infant, being the first year of her birth, with her parents to their native country, and always

resided there afterwards, was a citizen of the United States by birth. This was the principle of the English common law in respect to all persons born within the King's allegiance, and was the law of the Colonies, and became the law of each and all of the States when the Declaration of Independence was made, and continued so until the establishment of the Constitution of the United States, when the whole exclusive jurisdiction of this subject of citizenship passed to the United States, and the same principle has there remained." When our Constitution declares (part 1, art. 29) that it is the right of every citizen to be tried by judges as free, impartial, and independent as the lot of humanity will admit, can there be the slightest doubt that women are to be considered as citizens, and entitled to claim the rights secured by this article just as much as men? When the Third Amendment declares that "every male citizen," &c., who has paid a tax, &c., shall have the right to vote, &c., is it not quite as clear that females may be citizens as that they are debarred the right to vote? If only men can be citizens, it is the height of absurdity to use the expression "male citizens." (See also, to the same purport, Const. U. S., art. 2, sec. 1; 14th Amend. ib. sec. 1.)

All the women in Massachusetts who are thus taxed every year are, therefore, either citizens by birth, or they may become citizens by naturalization.

Can, then, citizens be taxed without their consent? Under the Constitution, "no tax, &c., ought to be levied, &c., under any pretext whatsoever, without the consent of the people or their representatives in the Legislature." This consent may be, and, as we shall see, has been, in several instances, individually given by the person who is taxed; but, for the mass of the people, such consent can only be given in the way pointed out by the law for the mass of the people to use, — that is, by voting. So long as a citizen can vote in open town-meeting for or against his own taxation; so long as a citizen of any city can vote for members of the city government to whom he has, under the law, intrusted the power to levy taxes on his estate; and so long as a citizen can vote for

Governor, Senators, and Representatives, to whom, under the Constitution, he has intrusted the power to lay State taxes, — he has no reasonable ground of complaint. Nor can he object to being taxed by either of these bodies, if, thus possessing the power by his vote to assent or dissent, he refrains from exercising the right.[1] In all cases, therefore, where a citizen has the right to vote, no matter whether he exercises the right or not, he virtually consents to all the State, county, city, and town taxes which may be levied upon him or his estate. When the Constitution declares that no tax can be levied without the consent of the people, it is to be understood as referring to the people who are thus taxed, and nobody else. It was of no sort of consequence to our fathers that the people of England consented to tax America. And when our Constitution says that no tax ought to be laid without consent of the representatives of the people, it is to be understood as referring to the representatives of the people who are taxed, and nobody else, — that is, those representatives whom the people who are to be taxed have the right to vote for or against, and which representatives, in this way, become authorized to consent to such taxation.

But the Constitution is to be construed in a reasonable manner. The consent of every one who may be taxed cannot possibly be obtained. A citizen may become insane, and, therefore, incapable of contracting. His consent to being taxed would be worth nothing, even if it could be obtained; and he surely ought not to be allowed to vote. Therefore, although the Constitution requires the consent of every citizen to his taxation before he can be legally taxed, it must be understood to refer only to those who are recognized by the law as capable of giving such consent, or those who are deemed capable of contracting, of earning, holding, and conveying the property which is to be taxed. The Constitution does not, therefore, require the consent of minors to their taxation, because, being under the age of consent, they may avoid any contract

[1] There were 57,356 legal voters in Boston at the last election; 29,596 of them voted, and 27,760 staid away from the polls.

they may make (except for actual necessaries) when they come of age, no matter how fair and honest the contract may have been. Nor does it require the consent of persons under guardianship, — as insane or spendthrifts, — for they have no greater power to contract than minors possess. But it does require the consent of every other citizen in the way above stated, before he or she may be lawfully taxed,[1] except only paupers and convicts. A citizen who is a pauper has nothing to be taxed for, and is not allowed to vote. A citizen who becomes convict, as part of his punishment is deprived of the right of suffrage. An alien who resides here knows that his property is liable to be taxed. Having no natural right to remain here, if he continues to remain, by such act he consents to be taxed, within the meaning of the Constitution.

This disposes of all the inhabitants or residents who can possibly be taxed under our laws, except only male and female citizens of full age, none of whom are paupers, convict, insane, or spendthrifts, and all of whom have equal right to contract, to acquire, buy, and sell the property which is to be taxed, or, in other words, precisely the same qualifications for voting, except merely sex; and the larger number of these citizens are women. Everybody else in the State, of full age, who can be taxed, either consents to such taxation, or, being legally incapable of contracting, cannot consent, or is excluded from suffrage on grounds entirely disconnected with sex; that is, for want of property, or for ignorance, insufficient residence, or as a punishment for crime, &c.

Here, then, are two classes of citizens, each possessing equal qualifications for voting; and the right of suffrage is confined to males, but both males and females are taxed.

Can any such female citizen who is thus denied the right to vote be constitutionally taxed?

In the opinion of the Judges of our Supreme Court, the

[1] It does not seem necessary to specially consider the cases of those citizens who are disqualified from voting in consequence of insufficient length of residence in the town where they live, or those who cannot read the Constitution under which they are to vote.

taxation of a male citizen must go hand-in-hand with his right to representation; and, if he is denied the right to vote, he cannot constitutionally be taxed.

For many years prior to the adoption of the Constitution, a practice had existed of levying taxes on unincorporated plantations. Our Judges gave their opinion that article 23 of the Declaration of Rights "would exempt from the power of taxation by the General Court all unincorporated plantations, unless some further constitutional provision" had been made.

"It was, therefore, thought necessary (say they) either to provide some representation in the Legislature for the unincorporated plantations on whom public taxes had been or were to be levied, or to abandon the usage of taxing them. To give them representatives in the House would be inconvenient, if practicable. But to admit them to a representation in the Senate was a provision easy to make, and the right to tax them would remain. On this ground a paragraph was introduced extending to two classes of unincorporated plantations. (Const. chap. 1, sec. 2, art. 2, par. 3.) One class comprehends the plantations who were assessed to the support of government by the assessors of adjoining towns. The inhabitants of these plantations, having the necessary qualifications of age and estate, were authorized to meet and vote for Senators with the inhabitants of the towns by whose assessors they were assessed. The other class comprehends the plantations who were empowered to assess themselves. The inhabitants of these plantations, duly qualified as to age and estate, were authorized to meet and vote for Senators within their plantations; and for the purpose of receiving, counting, declaring, and returning the votes, their assessors were substituted in the places both of the selectmen and clerks of towns.

"No provision was necessary for plantations on whose inhabitants public taxes were not levied." (Letter of the Judges to the Governor, Jan. 3, 1807, 3 Mass. Rep. 569, 570.)

In other words, our Supreme Court Judges, Parsons, Sewall,

Thacher, and Parker, declared their opinion to be that it was contrary to the Declaration of Rights to tax inhabitants who resided on incorporated plantations, unless they had, at least, the right to vote for Senators; and that, if the Constitution had failed to provide any representation in the Legislature for the people residing on such plantations, it would have been necessary "to abandon the usage of taxing them."

In like manner, it has been customary for many years in the general laws to authorize assessors to exempt from taxation, either wholly or in part, those persons who, by reason of age, infirmity, or poverty, may, in their judgment, be unable to contribute towards the public charges.

In 1832 a question arose whether persons who had been thus exempted for two years, but who nevertheless "have the requisite qualifications as to age and residence, are entitled to vote for Governor, &c., under the third article of the amendments to the Constitution."

The Judges, in their reply to the Senate, said: "We are of opinion that, when such exemption has extended to two years, they are not. We think it was the plain intent of this clause of the amendment of the Constitution to give practical force and effect to the maxim that taxation and representation should go together, and to secure the right of electing those who are to administer the government to those who, in fact, contribute to its support. It confines the power, therefore, in terms to those who shall have paid some tax assessed within a short period preceding the election, and, for the sake of exactness, fixes that period to two years. . . .

"We think the exemption in question was intended as a benefit to those who, by reason of age, &c., are unable to contribute, and one which, if they so elect, they may waive; and in such case it would not be in the power of the assessors to omit them in the assessment or abate their taxes against their consent, with a view to affect their legal franchise." (11 Pick. 542, 543.)

In other words, in the opinion of Judges Shaw, Putnam, and Wilde, the third amendment was plainly intended to give

power and effect to the maxim that taxation and representation should go together, and to secure to those who contribute to the support of government, that is, to tax-payers, the right to elect those who are to administer the government, that is, those who are to expend the sums raised by taxation. But do not women tax-payers fall within the same principle? Do they not contribute hundreds of thousands of dollars every year to the support of the government? Ought they not therefore to have some voice in determining who shall administer the government? And, if the Constitution denies them the latter right, must it not also have relieved them from the burden of paying taxes?

It is perfectly plain, therefore, under these opinions, that the only ground upon which we are able constitutionally to tax a male citizen is that he has the right to vote, and having such right, whether he exercises it or not, he consents to be taxed. But if we cannot tax a male citizen, under any pretext whatsoever, without his consent, or unless he has the right to vote, where do we find the right to tax a female citizen without her consent, or unless she also has the right to vote? If, according to these opinions of our judges, we have not the slightest vestige of a right to tax one of the minority of the citizens of the Commonwealth without his consent, how can we have any greater right to tax one of the majority of such citizens without her consent? The Constitution disfranchises women. By depriving them of the right to vote, we deprive them of the right to assent to being taxed. Have we not, therefore, deprived ourselves of the right to tax them? The Constitution does not say male citizens shall not be taxed without their consent; but no inhabitant, that is, no person, male or female, can be taxed without his or her consent, or the consent of his or her representatives in the way pointed out. If our Declaration of Rights means any thing, it must mean that taxation and representation for adult citizens capable of contracting, whether male or female, ought never to be separated under any pretext whatsoever. If, under our Constitution, a minority of the citizens can deprive the majority

of the right of representation, and still retain the right to tax them, then our fathers fought to save their pockets, and not their principles. If we male citizens of Massachusetts can rightfully do this, then the Declaration of Independence and our Bill of Rights are a mere tissue of glittering generalities, and wholly incapable of any practical resistance to oppression.

That the right to tax male citizens is based entirely on their right to vote, is also clear from the fact that, whenever we have deprived them of the right to vote in the place where they reside, we have also relieved them from taxation in such place.

In 1798 we authorized the United States to buy the Arsenal grounds at Springfield, we retaining only "a concurrent jurisdiction with the United States, &c., so far as that all State civil and criminal processes as may issue under the authority of this Commonwealth against any person or persons charged with crimes committed without the said tract of land, may be executed therein in the same way and manner as though this cession and consent had not been made and granted." (Stat. 1798, c. 13.) In 1800 we authorized the United States to buy lands for the Navy Yard at Charlestown, reserving only the same concurrent jurisdiction, designed to prevent the place from becoming an asylum for criminals and debtors. (Stat. 1800, c. 26.) Other similar statutes containing the same reservation have been passed. (Stat. 1849, c. 45; Stat. 1856, c. 100; Stat. 1868, c. 292, 293; Stat. 1869, c. 458.)

The legal effect of these grants has been before the Court several times (8 Mass. Rep. 76; 17 Pick. Rep. 302); and finally the judges declared their opinion to be, that persons residing on such lands do not thereby acquire any elective franchise as inhabitants of the towns in which such territory is situated, and cannot be assessed for their polls and estates to State, county, and town taxes in such towns. (1 Met. Rep. 583.) In the opinion of Judges Shaw, Putnam, Wilde, and Dewey, therefore, any law which deprives a class of male citizens of

the right to vote where they practically reside, necessarily relieves them from taxation; or, in other words, a male citizen having the usual qualifications cannot be taxed unless he is allowed to vote.

It may possibly be urged that these lands, being owned by the United States, are subject to their exclusive jurisdiction, and that therefore there is no more reason why we should allow people living there to vote, or continue to tax them, than if they lived in New Hampshire; and the judges, in their opinion, say that such residence "for any length of time will not give such persons or their children a legal inhabitancy in such towns," so as to entitle them to support as paupers. (1 Met. Rep. 583; 8 Mass. Rep. 76.)

But this objection is without weight. In no case have we parted with our whole jurisdiction over these lands. In no case has the United States acquired exclusive jurisdiction. In the great majority of the cessions that have been made, the State has reserved an equal and concurrent jurisdiction for its process with that of the United States; and even in the restricted form followed in reference to the grounds at Springfield and Charlestown, the State reserves some jurisdiction, and it is not in the power of the United States to withdraw its consent to such joint jurisdiction. If it does, the grants become void, and the State becomes reinvested with its former complete sovereignty. Whereas our State process has no power whatever in New Hampshire, without the consent of the latter State, and such consent may be withdrawn at any moment. In point of fact, men living in the Navy Yard who yet claim Boston as their home, and who do not seek to avail themselves of the exemption afforded by the act of cession, but on the contrary consent to be taxed, are recognized as citizens of Boston, and allowed to vote. And although persons domiciled in the Navy Yard do not acquire a settlement so as to be entitled to be supported as paupers, it is nevertheless true that they are considered as legally inhabitants of the State; and, if they die in the yard, their estates are settled in the State Probate Court, just like

other "inhabitants of or residents in the county."[1] (Gen. Stat., c. 117, § 2.)

There was, also, another class of native-born inhabitants, who were deprived of the right to vote. I allude to the Indian population of the State.

John M. Earle was appointed Commissioner (Stat. 1859, c. 266) to examine into and report upon the condition of the Indians. He made his report to Governor Andrew in 1861. (Senate Document 96.) From this it appears that the Chappequiddick, Christiantown, Gay Head, Marshpee, Herring Pond, Natick, Punkapog, Fall River, Hassanamisco, and Dudley Indians (called by him Plantation Tribes, because they constituted distinct communities, who then, or at some previous time, had either funds or reservations for their support) numbered 1,241 persons. Besides these Plantation Tribes, he found 322 persons descended from the Yarmouth, Dartmouth, Mamattakeeset, Tumpum, Deep Bottom, and Middleborough Indians, and other tribes scattered through the State, most of them living in or near the places where their ancestors lived, but some of them being found by him in Boston, Lynn, Salem, Worcester, Barre, Greenfield, Springfield, and other places.

Only two families of Natick Indians were found.(Rep., p. 71); and Mr. Earle saw no sufficient reason for continuing the guardianship. Though the Punkapog Tribe formerly owned 5,000 acres in Norfolk County, none of this property then remained in their possession; and he saw no good reason why the rights and privileges of citizenship, which had generally been conceded to them in the places where they resided, should not receive a legal recognition. Twenty families of Hassanamisco or Grafton Indians were found, only one of them remaining on the heritage of their fathers, and that family retained less than three acres out of their former domain; but he saw no good reason why the right of citizenship should not at once be granted to them all.

[1] Hon. William A. Richardson, whose jurisdiction, as Judge of Probate, formerly extended over Charlestown, writes to me (Feb. 5, 1875), "I have no doubt that the Probate Records at Cambridge contain numerous cases of grants of administration, &c., in precisely such cases."

Accordingly, on his advice, the "Act concerning the Indians of the Commonwealth" (Stat. 1862, c. 184) was passed.

Section 1 reads thus: "All Indians and descendants of Indians are hereby placed on the same legal footing as the other inhabitants of the Commonwealth, except such as are or have been supported in whole or in part by the State, and except also those residing on the Indian Plantations of the Chappequiddick, Christiantown, Gay Head, Marshpee, Herring Pond, Fall River, and Dudley Tribes, or those whose homes are on some one of said Plantations, and who are only temporarily absent therefrom."

This section enfranchises the Natick, Punkapog, and Grafton Indians, and those not classed by Mr. Earle among the Plantation Tribes, except paupers.

The law goes on to point out a way in which other Indians may become citizens, "and, upon paying a poll-tax," become, to all intents and purposes, citizens of the State, not thenceforward to return to the legal condition of an Indian.

Seven years later the "Act to enfranchise the Indians of the Commonwealth (Stat. 1869, c. 463) was passed. Section 1 provides that "all Indians and people of color heretofore known and called Indians within this Commonwealth are hereby made and declared to be citizens of the Commonwealth, and entitled to all the rights, privileges, and immunities, and subject to all the duties and liabilities, to which citizens of this Commonwealth are entitled or subject."

From 1780 (and, indeed, before) down to the passage of these laws, Indians, though native-born inhabitants of the State, have thus been denied the right of suffrage, and have accordingly been exempted from taxation. (Stat. 1821, c. 107, § 6; Rev. Stat. (1836), c. 7, § 5; Gen. Stat. (1860), c. 11, § 5.)

The right to vote had not been withheld from them as a class because they were under guardianship. Many of them had never been under any form or kind of guardianship, either they or their ancestors; but they had lived just where and how they pleased, like other men and women. Still none of these native-born men were allowed to vote; and solely be-

cause of this denial of suffrage, and for no other reason which can possibly be assigned, they were relieved from taxation. As they could not consent to be taxed either by voting in person or by representatives to be voted for, it was contrary to our Declaration of Rights to tax them; and they never have been taxed so long as the right of suffrage has been withheld from them.

In many places, however, they have been allowed to vote before being legally enfranchised; but in every such case taxation and representation have gone hand in hand together. If they, in individual cases, consented to be taxed, they were allowed to vote; if they refused to be taxed, they were denied the right of suffrage.

Mr. Earle enumerates 180 male Indians, who, like their ancestors, had never been under guardianship, who were scattered through 31 different places in the State, and who were allowed to vote on precisely the same terms as other male citizens. The Deep Bottom Indians, so called, seem to have been the only ones who, never having been under guardianship, did not enjoy the right of suffrage. Of them, he found four families living in a deep valley about six miles west of Edgartown, where their ancestors had lived at the first settlement of the island by the whites. Why they, also, did not vote, he does not inform us. He merely says, "They are not considered as entitled to the rights of citizenship." (Rep., p. 116.)

He even found some Indians belonging to tribes that had always been under guardianship, who had acquired the right to vote by consenting to be taxed. The Chappequiddick Indians occupy the northerly portion of the island of that name, lying on the easterly side of Martha's Vineyard, and not more than an eighth of a mile from Edgartown. These Indians could neither sue nor be sued, nor make any contract without the consent of their guardian. They could not even receive wages for a voyage, if payment was forbidden by their guardians, &c.; and yet to two families of this tribe who lived in Edgartown, though legally subject to these disqualifications, the rights of citizenship were conceded (Rep. 19, 20), because

they owned property in Edgartown for which they consented to be taxed.

The Punkapogs were also under guardianship. Mr. Earle found that those of the tribe (about one-quarter of the whole number) who resided in Canton were not taxed, and did not vote; but the rest of the tribe, who resided in other towns, so far as was known, stood on the same footing as other people, no reference being had to their Indian descent. (Rep., p. 73.)

The Hassanamisco or Grafton Indians were also under guardianship; and yet, nevertheless, Mr. Earle found that about one-half of them were treated as citizens in the towns where they resided.

The Dudley Indians, a remnant of the Nipmugs, who were visited by the Apostle Eliot in 1663, were also under guardianship; but the greater portion of these Indians, scattered through various towns, had acquired and exercised the rights of citizens in the places where they resided. (Rep., p. 103–106.)

"Indians not taxed" are excluded from the numbers which serve as the basis for equalizing the power and burdens of the different States in the Union, solely on the ground that taxation and representation should go together. Although Indians are recognized by the United States Constitution as free persons, those who are not taxed are, nevertheless, excluded from the enumeration which forms the basis of representation in Congress. It is manifestly unjust that the taxes of a State should be increased in consequence of the existence of a class of free persons within its borders who are not taxed. It is equally unjust to the other States to allow one of them to count a class of persons whom it excludes from suffrage in order to increase the number of its representatives, and thereby its political power.

Although, therefore, our Constitution gives the Legislature, in express terms, the power to tax all inhabitants or residents, there have been two classes of inhabitants who could not be taxed without infringing on the Declaration of Rights. We have no right to tax those who reside on lands ceded to the

United States, as before quoted, and Indians, prior to the passage of the laws for their enfranchisement. The State has seen fit to deprive these two classes of citizens of the right to vote; and, solely because of this denial of the right to vote, it has been held to be unlawful to tax them.

But if it be thus contrary to our Constitution to continue to tax male citizens after depriving them of the right to vote, and if it be thus illegal solely because they are thus disfranchised, by what authority do we deprive female citizens of the right to vote, and still continue to tax them? The Declaration of Rights applies to women as well as to men. It was expressly framed to protect all citizens, men and women, from unjust taxation. If we cannot constitutionally continue to tax male citizens after depriving them of the right to vote, where do we find the authority to tax female citizens from whom we withhold the ballot? We must find the right in the Constitution, if anywhere. But no right to make any such distinction can be found anywhere in the Constitution. It rests altogether on usage and custom. Women have always been disfranchised, and constantly taxed; but, notwithstanding the constant repetition of the wrong every year for nearly a century, it is a plain infringement on our Declaration of Rights.

Doubtless some one will say, this is all very well; but our Supreme Judicial Court has decided that Miss Wall was liable to be taxed. But all the Judges who made that decision have left the bench; and whether another Court, differently constituted, will make the same decision, remains to be seen. King Charles levied his ship-money on the inland towns of England, in accordance with the written opinion of twelve judges in favor of his right, which opinion is now on file in Westminster Hall. The judges, acting under the directions of Lord Keeper Coventry, charged the grand juries on the different circuits that the King was clearly in the right. But, nevertheless, John Hampden, though rated only 31*s.* 6*d.*, resisted the tax. He contended that it was arbitrary and illegal, because it was laid without the consent of Parliament. When his case

came before the judges, naturally enough, only four of them were found willing to decide in his favor; and it was accordingly as clearly held by the judges in England to be constitutional for the King, by his mere prerogative, to levy that tax, as it has been held by our judges to be constitutional for Worcester to tax Miss Wall. But who now doubts the illegality of King Charles's act? In like manner, I have the most undoubting confidence that some time or other we shall all say, in the words already quoted from Chief Justice Parker, neither any course of years, or legislative acts or judicial decisions will sanction any apparent violation of the fundamental law, clearly expressed or necessarily understood; and that, if our Declaration of Rights means any thing, it means that no citizens, male or female (more especially the latter, as being the majority), can be lawfully taxed, under any pretext whatever, after we have deprived them of the right to vote personally, in town meeting, for or against taxation, or the right to vote for representatives who can, in their behalf, oppose or favor such tax in city government or in the Legislature.

It will hardly be expected by any one, that I should find in the legislation of the State, any plain admission that the existing taxation of women was contrary to our Constitution; and yet such an admission seems to have been made.

The Constitution makes no distinction of sex in reference to taxation. A woman who is worth $20,000 is, under its provisions, to be treated neither better nor worse, but just the same as a man worth $20,000. Under our Statutes, $1,000 worth of her household furniture and her wearing apparel are exempted from taxation, just as if she were a man. (Gen. Stat. c. 11, § 5, art. 6.) If she should happen to be a farmer or a mechanic, her farming utensils, and the tools necessary for carrying on her business, will be exempted just the same. (Ib.) $2,000 of the income derived from her profession, trade, or employment will be exempted just the same as it is for a man. (Gen. Stat. ib. § 4; Stat. 1873, c. 354.) And if, by reason of age, infirmity, and poverty, she cannot, in the judgment of the assessors, contribute fully towards the public charges, she

may be exempted, either wholly or in part, just the same as a man, in like circumstances, may be exempted. So that neither our Constitution, nor these general laws in reference to taxation, make any distinction of sex, — men and women are and ought to be treated alike Why should they be treated differently by the Statutes, if their rights under the Constitution are equally protected? No reason can possibly be assigned why the property of a woman should be treated by statute any differently from that of a man, so long as the constitutional rights of neither are invaded. If any difference is, therefore, made in the Statutes, and one sex is protected more than the other, the inference is unavoidable that some constitutional right of that sex has been invaded. Now, the Legislature has admitted that women have been unjustly treated in reference to taxation.

In 1853, the Legislature passed "an Act to exempt the personal property of widows and unmarried females from taxation in certain cases." (Stat. 1853, c. 355.)

In 1858, the law was repealed, and "an Act relating to the exemption of the property of widows and unmarried females from taxation" was passed. (Stat. 1858, c. 43.) This law is a little more favorable to women. This latter law was re-enacted in 1860, but in clearer language. The General Statutes (c. 11, § 5, art. 10) exempts "the property to the amount of $500 of a widow or unmarried female, and of any female minor whose father is deceased, if her whole estate, real and personal, not otherwise exempted from taxation, does not exceed in value the sum of $1,000."

Now, as the Constitution makes no distinction between the taxable character of property on the ground that in one case it is owned by an orphan boy, and in the other by an orphan girl, why should this law exempt one and tax the other? So long as the Constitution provides for the taxation of the property of widows, on precisely the same terms as that of widowers, and taxes unmarried females no more or less, but just the same, as bachelors, why should this law exempt females and tax the males? The property rights of men, minors and

adults, are deemed to be sufficiently guarded by the Constitution, and the general laws, already quoted, passed pursuant thereto. Down to 1853 the property rights of women, minors and adults, were protected by the same general laws as those by which the property rights of men were protected. If there be, therefore, any injustice in the treatment of women which called for the passage of these laws relieving them from taxation, it must grow out of the failure to secure to them their rights under the Constitution. Have they the same security as men enjoy under the Constitution? Have they the one great security which is pointed out by the Declaration of Rights, and which is secured to men? Most assuredly not! The passage of these laws, therefore, amounts to a plain admission, on the part of the Legislature, that the property rights of women tax-payers under our Constitution have been invaded; and, if so, they have been invaded in the only way possible, *i.e.*, by denying them the right of suffrage. The Legislature must have passed these laws solely because they felt that women, being deprived of the ballot, did not have the same power under the Constitution to protect their rights of property that men enjoyed; and the Legislature was right. Women never can have equal power with men to protect their property or personal rights until they possess the right of suffrage.

Does any one say, these laws have been dictated by a spirit of chivalry, and a desire to help women in their struggle for existence, and not from a feeling that they did not possess already all the rights our Constitution intended to give to every citizen? But, if they had all the rights which the Constitution gives to men, women would no more need such paltry assistance as these exemption laws afford, than men now do. They would be found quite as capable as men in the struggle for existence, and would need no more exemption from taxation than what the general law would think proper to give to men and women alike.

I am not, however, obliged to rely upon any mere inference that the constitutional rights of women have been invaded.

The law now recognizes, in the clearest manner, the right of women to vote, as to one class of taxes, and exempts them now from all liability for such taxes, if the right of suffrage be denied them.

The Constitution recognizes two classes of taxes. The Legislature is to impose taxes for the support of government, &c., and towns are to lay taxes to maintain public worship, to support a minister, and to maintain public schools, &c. (Const., parts 1, 2.) In other words, our Constitution recognizes taxation for both civil and ecclesiastical purposes.[1] Can these taxes be constitutionally levied upon different principles? The Constitution does not say no tax for civil purposes shall

[1] As to the amount of the yearly ecclesiastical taxes there are no very reliable data. By the United States Census of 1870 (p. 506), the church property in Massachusetts is valued at $24,488,285. The sittings being 882,317, this would make $27.75 represent the capital invested for each seat.

The lowest tax per annum for a single seat in the Catholic Church in my town, Brookline, is $5. It is about three times as much in the meeting-house of the 1st Parish. The benevolent contributions in 473 Congregational churches in this State for the last year amounted to $394,110.60 (Congregational Quarterly, Jan. 1875, p. 135), or an average of $4.77 for each church-member, and an average of $5.63 for each church-member, not counting absentees. In the Episcopal churches, the contributions for missionary and church purposes amounted to $511,446.35, or an average of $40.86 for each communicant. (Church Almanac for 1875, p. 83.) The benevolent contribution, among the 282 Baptist churches amounted to $876,960, being an average of $19 for each church-member. The 279 Methodist churches contributed for benevolent purposes $40,063, or an average of $1.36 for each of the full members and probationers.

Except in the case of the Episcopal churches, none of these sums represent the actual support of the 1,052 churches from which the contributions were received. That is, these 1,052 churches not only supported their ministers, paid for the repair of their buildings and their other church expenses, but also contributed more than $1,300,000 in one year for benevolent purposes. This does not include the very large contributions among the Catholics, Unitarians, Universalists, &c., for I can find no returns on the subject.

It seems to me, therefore, highly probable that the churches in the State tax each seat at least $5 a year for their own ecclesiastical purposes. This, though only ten cents a Sunday, would make $4,411,585 as the sum raised each year for ecclesiastical purposes. That the church-members are largely women is evident. There are 25,810 males and 56,669 females, members in the Congregational churches. (Quarterly Review, p. 135.) The other church returns which I have seen make no distinction of sex.

be laid without the consent of the people, &c., or that no tax for ecclesiastical purposes shall be laid without such consent. It simply declares no tax whatever, for any purpose, shall be laid, under any pretext whatsoever, without such consent. Although it is apparent to every one that a broad distinction, in fact, exists between the objects for which taxes may be lawfully laid, and although the Constitution itself provides for both civil and ecclesiastical taxes, it nevertheless pays no heed whatever to any such distinction, when defining the grounds upon which all taxation, to be legal, must be based. It simply lays down the plain, just rule that no tax, for any purpose or under any pretext, can be legally laid without the consent of the people or their representatives.

Anciently, only freemen were allowed to vote, and none but church-members could be admitted freemen. (1631, Colony Laws, p. 117.) So strict were they in those early days that if a church had been gathered without the approbation of three or more magistrates, or of the elders of the neighbor churches, even its members were declared unfit to vote. Those persons who refused to attend upon public worship as established by law were "made uncapable of voting in all civil assemblies during their obstinate persisting in such wicked ways and courses," and until a certificate was given of their reformation. (Ib. p. 107.) We ought not, therefore, to be surprised at the elders for giving their opinion to the General Court that "any sin committed with an high hand, as the gathering of sticks on the Sabbath-day, may be punished with death, when a lesser punishment might serve for gathering sticks privily and in some need." (1644, ib. p. 731.) Nor do we think it strange that, in enumerating the subjects for which towns may lay and assess taxes, we find it declared that taxes shall be laid (first) "for the maintenance and support of the ministry;" and after this came the appropriations for "schools, the poor, and for defraying of other necessary charges arising within said town." (1692, ib. p. 249.) Our fathers placed the duty of supporting an able, pious, and Orthodox minister before all other town duties. Indeed, it was expressely made "the duty

of the Christian magistrate to take care the people be fed with wholesome and sound doctrine," &c. (Ib. p. 101.) So intimate was the union of Church and State in those old Puritan days, and so intimate will it again become as soon as we have adopted the Christian amendment to the Constitution of the United States! Then the ancient rule, which required a deputy to the General Court to be sound in judgment concerning the main points of the Christian religion as they have been held forth and acknowledged by the generality of the Protestant Orthodox writers (1654, ib. p. 97), or something like it, will be again adopted; and the committee which now passes upon the credentials of members of the Legislature, and their civil qualifications, will also be required to say whether such members are evangelical or no!

Practically speaking, therefore, the town and parish were anciently one and the same body. The same men who balloted for Town Clerk, Selectmen, Constable, &c., and who voted taxes to support highways, schools, &c., also contracted with the minister, and voted taxes for his support, or to build a meeting-house or parsonage; and it was just as much a legal duty imposed on towns, to support an able and faithful minister of God's holy word, as it was to pay their Clerk, Selectmen, or Schoolmaster, &c. The same Town Constable who was directed to carry his black staff in the execution of his office, that none might plead ignorance, and who was ordered "to take notice of common coasters, unprofitable fowlers, and other idle persons, and tobacco takers," and to arrest, without warrant, Sabbath-breaking persons (1658, ib. p. 82), was also obliged to take notice of the tax-payers of the town, and to gather all the town rates committed to him by the Selectmen.

Under these laws, all women who had property were taxed just the same as men, though they had no right to vote.

Very soon, however, religious differences began; and "a cursed sect of hereticks, lately risen up in the world, called Quakers" (1656, ib. p. 121), began to dispute the right of a town-meeting to tax them for the support of a hireling priest-

hood; and they apparently devised various ways to elude such taxation. (Ib. p. 373.) They could not conscientiously attend upon the public worship of God, as established by law, and were therefore deprived of the right to vote. (Ib. p. 107.) The contest lasted a long time; but, after some temporary legislation to the same purport, it was finally enacted (1757, ib. 783) that no Quakers or Anabaptists shall have their polls or estates, real or personal, taxed towards the settlement or support of such minister or ministers, nor for building or repairing any meeting-house or place of public worship." In other words, as a Quaker was deprived of the right to vote in ecclesiastical matters, not merely by scruples of conscience, but by express law, it was deemed unjust that he should be compelled to pay such taxes.

In like manner, Episcopalians complained of being taxed for the support of divine worship in the manner established by law, while they and their families attended worship elsewhere. Whereupon it was enacted (1742, ib. 537) that they and their estates "shall be taxed to the support of the public worship of God with the other estates and inhabitants within the bounds of any town, &c., according to the laws of the Province;" but the Treasurer, as he receiveth any such tax, is directed to pay it to the minister of the church at which such tax-payer usually attends worship; and "all such professed members of the Church of England shall be entirely excused from paying any taxes towards the settlement of any minister or building any meeting-house, . . . and utterly debarred from voting any ways concerning such ministers or meeting-houses."

Here, again, as every sincere member of the Church of England was deprived of the right to vote on the settlement of a minister, &c., not only by his scruples of conscience, but by express law, the same law declared it to be unjust that he should continue to be taxed for these objects.

After the adoption of our Constitution, various laws were passed to carry into effect its provisions. Towns were authorized to grant and vote money "for the settlement, main-

tenance, and support of the ministry, schools, the poor, and other necessary charges arising within the same town" (Stat. 1785, c. 75, § 7); and towns were also liable to be fined if they were not "constantly provided with a public Protestant teacher of piety, religion, and morality." (Stat. 1799, c. 87, § 2.) The support of the ministry, &c., remained one of the objects for which towns were expressly authorized to appropriate money until 1836.

So long as only one parish existed in a town, this union of Church and State continued, and was complete. But, when a second religious society was formed, a separation took place, and the seceding inhabitants became the Second Parish. Those who remained constituted the First Parish, and became entitled to hold the meeting-house, and other property previously held by the town for ministerial purposes.[1]

After any such separation took place, a change became necessary in the mode of voting taxes. The town would continue of course to vote taxes for civil purposes, because members from all the religious societies in town took part and

[1] As illustrations of this union of Church and State, I would say that in Brookline Town Meeting the moderator would sometimes address the voters present as "the congregation." Thus, "at a meeting of the inhabitants of the Town of Brookline, holden on the 20th day of December, 1796, for the purpose of knowing whether the congregation would concur with the choice of the church . . . of Mr. John Pierce for a gospel minister to settle in this town," after choice of moderator, Mr. Pierce was unanimously chosen, and a committee was chosen to wait on him "with a copy of the proceedings of the church and congregation, and invite him to settle in this town and be our minister." Mr. Pierce was the last minister thus chosen in town-meeting. The separation of town and parish took place in 1828. Before that time, for many years, the town, at its annual meeting, after making an appropriation for highways, would proceed to vote a round sum "to pay the Rev. Jno. Pierce his salary and defray the usual expenses of the town the current year."

We now enjoy in this State the most unlimited freedom of religious belief, provided only we do "not disturb the public peace or obstruct others in their religious worship." We now recognize as sacred the right of private judgment in matters of religion; and yet it is true that the seed which was planted at Plymouth, the independence of churches, logically bound up in itself, as Masson says, the very principle of religious liberty which we now enjoy. (Thornton, p. 33, note.) The Puritans were not the only persons in the world who have builded better than they knew.

voted in town meetings. But the different parishes or religious societies voted their own taxes for ecclesiastical purposes, each member voting for or against his own tax in his own parish or society. This separation between town and parish became finally so general that the constitutional effect of it was recognized in the law, and it was enacted, —

"No citizen of this Commonwealth, being a member of any religious society in this Commonwealth, shall be assessed or liable to pay any tax for the support of public worship or other parochial charges, to any parish, precinct, or religious society whatever, other than to that of which he is a member." (Stat. 1823, c. 106.)

We have already seen that, in the construction of statutes, words importing the masculine gender may be applied to females. Women having always constituted the majority of the citizens of the State, this law, which professes to be intended to secure citizens against unconstitutional taxation, must be held to protect female citizens no less than males, notwithstanding the use of the word "he," unless we can see that such a construction of the law "is inconsistent with the manifest intent of the Legislature, or repugnant to the context of the same statute." (Gen. Stat. c. 3, § 7.) And how is it possible to point out any such inconsistency or repugnancy? This law, therefore, when construed on correct legal principles, apparently admits not only that female citizens may be members of religious societies, and entitled to vote for or against ecclesiastical taxes, but wholly exempts them from all such taxes imposed by any town, parish, or society where they are not allowed to vote.

So long as town and parish continued one, it is clear that all taxes, to be constitutional, were required to be laid with the consent of the people taxed. Each man voted for or against his town and parish tax in town meeting. As the separation between town and parish gradually took place, the town continued to impose taxes for civil purposes; and the parish, or religious society, claimed the exclusive power to tax its own members for ecclesiastical purposes. But nevertheless all such

taxes of both kinds, whether laid by town or parish, were still required to be laid with the consent of the people taxed; and when, in 1823, the separation of town and parish affairs became the rule, rather than the exception, the Legislature, recognizing as a fact the frequency of this separation, enforced the constitutional provision that all taxation must be based on consent, by passing a law declaring, in effect, that no citizen, male or female, can be taxed for ecclesiastical purposes, out of his or her own parish or society where he or she can vote, just as no male citizen can be constitutionally taxed for civil purposes, out of the town where he is allowed to vote. The two kinds of taxes were, it is true, to be levied by two different bodies; but no change whatever was made, or thought of, in the constitutional basis of taxation; and no tax can now be laid by either town or parish without consent.[1]

The clause in our Constitution requiring towns, &c., to support public worship, &c. (art. 3), was repealed in 1833, and the eleventh amendment was adopted. This gave the finishing touch to the separation between town and parish, and gives to "the several religious societies of this Commonwealth, &c., the right to elect their pastors, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, &c.;" but all members may dissolve their connection with the society by a written notice, "and thenceforth shall not be liable for any grant or contract," &c. As this amendment speaks only of "persons" and "members" of religious societies, and makes use of no words importing the masculine gender, there would seem to be no room for doubt that under it women may become members of a religious society, and have and enjoy the same rights of voting that men enjoy.

Under this amendment it was enacted (Stat. 1834, c. 183),—

SECT. 2. "No person shall hereafter become or be made a member of any parish or religious society, so as to be liable to be taxed therein for the support of public worship or for

[1] The taxation of non-resident owners of real estate is based on the consent growing out of voluntary ownership.

other parish charges, without his express consent for that purpose first had and obtained;" and

SECT. 8. "No citizen shall be assessed or liable to pay any tax for the support of public worship or other parish charges, to any parish or religious society whatever, other than to that of which he is a member."

If, as we have seen, the law of 1823 extends to women, and admits and protects their rights to become members of religious societies, it would seem to be clear that this law must also receive the same interpretation. More especially must this be the case when we consider this law as designed to give practical effect to the amendment, which unquestionably extends to women.

In 1836 the Statutes were revised by the late Charles Jackson and others. They reported (c. 15, § 12) that towns were authorized to vote money "for the settlement, maintenance, and support of the ministry," &c. But the Legislature, in passing the Revised Statutes, struck out this clause. (Rev. Stat., c. 15, § 12; see also Gen. Stat. c. 18, § 10.)

So that as early as 1823 the separation of town and parish had become quite general. In 1836, it was, practically speaking, complete; and from that time the right to levy taxes for ecclesiastical purposes has been confined to parish and religious societies as such, and these societies have only been able to tax their own members or those who had the right to vote for or against such taxation. Not only has the citizen, male or female, this protection against unjust taxation for ecclesiastical purposes; but any one who is dissatisfied may withdraw from a religious society at any time, by giving written notice to that effect, and by thus ceasing to be a voter he or she will be relieved from all taxation.

It would seem to be clear, therefore, that probably as early as 1823, but at all events since 1836, no woman could be taxed for any ecclesiastical purpose, unless she also had the right to vote for or against such taxation, or unless she had consented to be taxed by not exercising her right to withdraw from the society imposing the tax. But, as if to make this precise

point (according to the old phrase) "certain to a certain intent in particular," an act to extend membership of parishes and religious societies to women, &c., was passed. (Stat. 1869, c. 346.) The first section of this act reads, "Any parish or religious society may admit to membership women, who shall have all the rights and privileges of men." This law recognizes the legality of the previously existing custom, and we have now women on our parish committees, and women are also settled as ministers; but long before the passage of this law the right of women to become members of religious societies had been recognized, and as such members they have had the right to vote, even if, from social or other reasons, they have commonly refrained from exercising such right.

However this may have been, beyond all doubt it is now contrary to our Constitution, to tax a woman for ecclesiastical purposes without her consent, or unless she has the right to vote for or against such taxation. It is equally beyond all doubt that, in defining what shall constitute a legal basis for taxation, our Constitution makes no sort of distinction between civil and ecclesiastical taxes, but requires them all to be based upon consent. If, therefore, a female citizen cannot be constitutionally taxed for ecclesiastical purposes, unless she has the right of suffrage in reference to such tax, neither can she be constitutionally taxed for civil purposes unless she has the right of suffrage in reference to such tax. We have no right to make any distinction which the Constitution does not point out. If we cannot, constitutionally, take a single dollar from a woman for a religious tax, unless she has the right to vote for or against it, we cannot, constitutionally, tax the women of the State hundreds of thousands of dollars every year, for civil purposes, unless they also have the right to vote for or against such taxation. We have seen fit to lay down in our Constitution one principle, and only one, by which to determine the rightfulness of taxation in every case. If a tax be laid either by State, city, town, or parish within its appropriate sphere, with the consent of the people who are taxed, it is constitutional; and it is of no sort of consequence

whether the tax be for civil or ecclesiastical purposes. But if, on the contrary, either the State, city, town, or parish undertakes to lay taxes, even within its appropriate sphere, without such consent, no matter whether the tax be for civil or ecclesiastical purposes, the tax is void; and our courts, that are all sworn to support the Constitution, are bound to declare such taxation to be void, as being an infringement of the Declaration of Rights.

It may possibly be urged as "each individual of the society has a right to be protected by it in the enjoyment of his life, liberty, and property according to standing laws, and he is obliged consequently to contribute his share to the expense of the protection" (Declaration of Rights, art. 10), that whoever is thus protected may be taxed, whether a voter or not; in other words, that taxation and protection — not taxation and representation — go together. And it is true that aliens who are not allowed to vote are, nevertheless, sometimes said to be taxed on the ground of this very protection which they receive. (Opinion of the Judges, Feb. 15, 1811, 7 Mass. 523.)

The King and Parliament also proposed to tax the colonists for their own protection; but the colonists wholly failed to see that this made any difference, or that the tax was any less tyrannical in consequence. They preferred to determine for themselves exactly how, when, and where such protection should be exerted. May not our women, properly enough, claim the same right to determine what protection they need, and are willing to pay for?

If it be argued that because aliens, having no right to vote, may rightfully be taxed, therefore native-born women who are disfranchised may also be taxed, the argument is worthless, unless we are also willing to admit that under our Constitution the property rights of more than half the citizens of the Commonwealth are no greater than if they were aliens! Who is ready to make this admission? It may very likely be true that women, in point of fact, enjoy no more property rights than are accorded to aliens; but it is very far from being true

that they ought to have no greater rights than aliens under our fundamental law, and equally untrue that they are in the actual enjoyment of all the rights to which they are entitled, by virtue of that law.

The all-sufficient answer to this objection, however, is found in the very same paragraph of the Declaration of Rights, which goes on to provide, "But no part of the property of any individual can, with justice, be taken from him or applied to public uses without his own consent, or that of the representative body of the people," or without providing a "reasonable compensation" in dollars and cents, for the property so taken. (Declaration of Rights, art. x.)

Until 1852 aliens could not own real estate in the Commonwealth. Now, they can do so (Gen. Stat. c. 90, § 38); and no real estate can be taken even from an alien, for public uses, unless the law which gives the right to take it, also provides a way by which he can obtain reasonable compensation. But the citizen is protected in his rights, not only by this provision requiring compensation, but also by the other provision in the same paragraph, which declares that no part of his property can with justice be taken from him, even for public uses, without his consent, or the consent of the representatives of the people, which representatives he has had a voice in electing. As a matter of grace and favor, we allow aliens to reside here and accumulate property, provided they submit to taxation; and, by so residing, they consent to be taxed. As a matter of right, a majority of the people of the State, being women, live where God has placed them, and claim that under our fundamental law no part of their property can be taken from them without their consent, even if compensation be provided for it, or even for the purpose of paying the expense of protecting them by standing laws.

With this I finish my statement about the taxation of women in Massachusetts. I have honestly endeavored to state the case fairly, and without exaggeration. The simple truth seems amply sufficient to cause any just-minded man to blush for our short-comings. The facts alone ought to be

enough to arouse our sympathy, and incite us to earnest effort to remedy the great wrong. I have proved that the women of the State are compelled every year to pay millions of dollars in the way of taxes. I have proved that all taxes which are collected from them, under authority of Congress, are laid contrary to the principles for which our fathers fought, and contrary to the principles of the Declaration of Independence; and I hope my readers will think I have succeeded in showing that the direct taxation of women under our State law, is not only contrary to these same principles, but is also an infringement of our Declaration of Rights. And may the day soon come when all of us shall be ready to admit that taxation without representation is tyranny, and nothing but tyranny, even if the persons taxed be women, and act accordingly!

BROOKLINE TOWN VOTES.

"Decem'r ye 28th 1772 At a meeting of the Freeholders & otner Inhabitants of ye town of Brooklyn on adjournment from ye 11th Decem'r to ye 28th following & then met.

William Hyslop, Esq'r, Chosen Moderator.

The Following Votes were pased by the Town unanimously at as full a meeting as Usual Viz. . . .

3d. Voted The Raising a Revennue within this Province by an assumed Power in the Brittishe House of Commons, to give and grant our Money without our Consent & appropriating the Money so Raised for the Support of the Government of the Province and the Payment of the charges of the Administration of Justice therein so repugnant to the first Principles of a free Constitution and the obvious meaning & Spirit of the Royal Charter of this Province.

4th. Voted that an Establishment for the Support of the Govonor of the Province, and the Judges of the Superior Court, &c. (if the latter be already made as we have Just reason to apprehend) to be paid out the Monies raised as aforesaid, independent of the free Gifts and Grants of the Commons of this Province are in the Opinion of this Town leading and alarming Steps towards rendering the whole executive Power independent, of the People, and setting up an despotic Government in the Province.

At a Meeting of the Inhabitants of the Town of Brooklyn from Friday, the 26th, To Monday the 29th of Nov'r (1773) To consider what was propper for this Town to do, relative to the large Quantity's of Tea belonging to the India Company, hourly expected to arrive in this Province, Subject to any American Duty.

1t. The Town came unanimously into the following Resolves Viz. That the Act of the British Parliament imposing a Duty on Tea, payable in America, for the Express purpose of raising a Revenue, is unconstitu-

tional, has a direct Tendency to bring the Americans into Slavery, and is therefore an Intolerable Grievance.

2d. That this Grievance which has been so Justly complained of by the Americans, so far from being redressed, is greatly aggravated by another Act, passed in the last Sessions of Parliament, for Benifit and Relief of the India Company, permitting them to Export their Teas to America or Forring Parts, free of all custom and Dutyes usually paid in Great Britian, but Subject to the Duty payable in America; thus have the Parliament discovered the most glaring Partiality in making one & the Same Act to operrate for the Ease & Convenience of a Few of the most opulent Subjects in Britian, on the one hand, and for the Oppressions of Millions of Freeborn & moast loyal Inhabitants of America, on the other.

3d. That the last mentioned Act can be considered no otherwise than as Subtle Plan of the Ministry to ensnare and enslave the Americans, and that whoever shall be instrumental in carrying the Same into Execution, is in the Judgment of this Towne, an inevitable Enemy to this Country."

* In towns marked thus in these tables, either a highway tax was assessed in addition to the poll, or else the poll-tax was more than $2.

† In places marked thus in these tables, the returns are for the year 1874 instead of 1873.

Table I. *Of Places where the Women pay* $\frac{1}{100}$ *or less of the Taxes.*

Towns.	1871.		1873.						1874.
	Number of Women.	Paid by them.	Whole Tax.	Women taxed.	Paid by them.	Equal in Polls.	Men who pay only a Poll-tax.	Amount.	Plurality for Governor.
Montague . .	15	$756	$30,146	. . .	$212	106	. . .	. . . .	42
Peru	6	133	2,875	. . .	18	9	. . .	. . . .	27
* Worthington .	3	20	4,599	5	42	21	36	$72	23
			$37,620	5	$272	136	36	$72	92

Table II. *Of Places where the Women pay from* $\frac{1}{60}$ *to* $\frac{1}{100}$ *of the Taxes.*

Towns.	1871.		1873.						1874.
	Number of Women.	Paid by them	Whole Tax.	Women taxed.	Paid by them.	Equal in Polls.	Men who pay only a Poll-tax.	Amount.	Plurality for Governor.
Holyoke . . .	83	$1,568	$139,530	112	$2,705	1,352	2,436	$4,872	737
Middlefield . .	3	51	6,431	5	121	60	67	134	38
Monroe . . .	3	9	1,868	3	36	18	4	8	3
Montgomery . .	3	54	2,353	4	46	23	17	34	10
Yarmouth . . .	86	1,280	17,479	. . .	311	155	. . .	. . . .	60
			$167,661	124	$3,219	1,609	2,524	$5,048	848

Table III. *Of Places where the Women pay from* $\frac{1}{40}$ *to* $\frac{1}{50}$ *of the Taxes.*

Towns.	1871.		1873.						1874.
	Women taxed.	Paid by them.	Whole Tax.	Women taxed.	Paid by them.	Equal in Polls.	Men who pay only a Poll-tax.	Amount.	Plurality for Governor.
Boylston	19	$264	$7,614	10	$160	80	71	$142	54
Fall River	324	16,418	636,452	284	14,257	7,128	7,543	15,086	642
Franklin	68	1,135	31,285	60	788	394	. . .	. . .	26
* Hardwick	21	428	19,371	. . .	450	225	. . .	. . .	14
Leyden	6	231	5,281	6	107	53	17	34	7
* Lincoln	33	561	11,588	12	270	135	82	164	47
Provincetown	50	859	38,876	41	819	409	415	830	177
Williamstown	36	606	22,612	. . .	488	244	. . .	. . .	58
			$773,079	413	$17,339	8,669	8,128	$16,256	1,025

Table IV. *Of Places where the Women pay from* $\frac{1}{50}$ *to* $\frac{1}{85}$ *of the Taxes.*

Towns.	1871.		1873.						1874.
	Women taxed.	Paid by them.	Whole Tax.	Women taxed.	Paid by them.	Equal in Polls.	Men who pay only a Poll-tax.	Amount.	Plurality for Governor.
Adams	83	$2,599	$176,644	108	$5,425	2,712	. . .	. . .	230
Canton	81	2,355	27,842	. . .	704	352	. . .	. . .	91
Carver	24	222	5,259	30	163	81	73	$146	
* Charlemont	13	429	9,121	16	263	131	45	90	124
Dover	13	262	7,075	13	186	93	46	92	10
† Dracut	45	623	20,922	33	661	330	184	368	35
Eastham	12	314	5,841	12	149	74	22	44	
* Gardner	41	713	40,084	62	973	486	513	1,026	106
Gill	15	224	5,987	15	163	81	48	96	2
* Hinsdale	22	747	15,034	. . .	471	235	. . .	. . .	11
Holland	3	33	2,809	3	86	43	84	168	20
Huntington	20	419	9,381	21	253	126	. . .	. . .	5
Lenox	50	1,631	19,786	23	561	280	109	218	89
Leverett	13	218	6,845	11	201	100	47	94	22
Maynard	. . .	. . .	14,832	. . .	389	194	. . .	. . .	3
Newbury	57	1,521	11,886	20	318	159	95	190	73
Norfolk	16	360	6,475	22	218	109	128	256	12
Palmer	51	1,217	25,514	40	787	393	470	940	27
Sandwich	105	2,137	21,163	42	616	308	271	542	80
Southampton	20	396	7,767	16	231	115	63	126	45
Wales	14	250	5,609	10	161	80	102	204	52
			$445,876	497	$12,979	6,489	2,300	$4,600	1,037

Table V. *Of Places where the Women pay from* $\frac{1}{20}$ *to* $\frac{1}{28}$ *of the Taxes.*

Towns.	1871.		1873.						1874.
	Women taxed.	Paid by them.	Whole Tax.	Women taxed.	Paid by them.	Equal in Polls.	Men who pay only a Poll-tax.	Amount.	Plurality for Governor
* Ashland	46	$1,024	$25,960	32	$1,270	635	379	$758	19
Belchertown	53	882	19,237	31	705	352	143	286	206
* Bolton	32	476	8,993	19	338	169	83	166	8
Brewster	26	1,138	10,198	15	435	217	46	92	
Chatham	47	601	12,505	54	631	315	107	214	
Clinton	61	2,280	78,828	90	3,072	1,536	894	1,788	69
Dighton	55	703	11,815	56	550	275	128	256	98
* Douglas	50	1,326	15,557	. . .	548	274	. . .	. . .	69
* Dudley	49	1,072	19,195	29	869	434	367	734	105
† East Bridgewater	109	2,390	22,041	52	1,091	545	287	574	92
Essex	43	1,237	14,558	27	495	247	127	254	70
Georgetown	76	1,398	20,462	75	958	479	. . .	. . .	16
Granville	15	345	9,418	14	351	175	62	124	80
Hadley	54	1,322	23,061	. . .	869	434	. . .	. . .	22
Heath	9	87	5,551	15	221	110	19	38	47
Holliston	86	1,860	31,059	76	1,114	557	438	876	24
Littleton	50	577	9,627	21	431	215	68	136	64
Marion	23	353	8,252	16	294	147	64	128	14
Natick	111	3,124	59,911	. . .	2,868	1,434	. . .	. . .	62
Northfield	48	688	9,612	38	386	193	93	186	33
Oakham	19	188	8,107	30	348	174	54	108	
Plympton	16	198	4,084	22	176	88	37	74	23
Prescott	13	206	4,853	12	188	94	24	48	9
Revere	22	754	26,539	25	929	464	282	564	51
Rockport	27	831	38,886	33	1,382	691	301	602	381
Somerset	36	665	14,000	26	684	342	247	494	
Sudbury	45	607	16,129	24	730	365	108	216	9
Tyngsboro'	13	258	4,472	18	186	93	72	144	6
Wellfleet	28	905	14,550	20	539	269	116	232	102
Westford	58	894	17,117	31	687	343	254	508	66
Westport	72	951	23,835	63	888	444	202	404	208
Wilbraham	66	948	18,455	43	810	405	170	340	9
			$606,867	1,007	$25,043	12,521	5,172	$10,344	1,962

Table VI. *Of Places where the Women pay from* $\frac{1}{16}$ *to* $\frac{1}{19}$ *of the Taxes.*

Towns.	1871.		1873.						1874.
	Women taxed.	Paid by them.	Whole Tax.	Women taxed.	Paid by them.	Equal in Polls.	Men who pay only a Poll-tax.	Amount.	Plurality for Governor.
About $\frac{1}{16}$									
Ashfield	33	$667	$14,350	33	$777	388	46	$92	55
Lakeville	41	742	6,305	33	330	165	68	136	7
Scituate	83	2,022	26,583	. . .	1,332	666	. . .	. . .	63
Spencer	47	1,280	42,275	35	2,121	1,060	620	1,240	61
Webster	54	4,196	32,116	. . .	1,621	810	. . .	. . .	107
About $\frac{1}{18}$									
Blackstone	115	2,471	32,173	89	1,764	882	780	1,560	179
Brookfield	63	2,622	24,855	38	1,399	699	. . .	. . .	66
* Harvard	84	1,338	12,994	33	728	364	107	214	16
Sheffield	35	813	14,736	36	786	393	. . .	. . .	40
Sunderland	14	590	9,391	17	535	267	56	112	67
About $\frac{1}{17}$									
Framingham	155	4,217	59,102	107	3,574	1,787	761	1,522	14
Foxboro'	74	1,914	27,414	. . .	1,638	819	315	630	84
Harwich	32	722	20,707	58	1,190	595	190	380	62
Holden	33	838	23,196	45	1,324	662	220	440	21
Lynn	590	29,229	531,925	526	30,249	15,124	4,982	9,964	28
* Sandisfield	24	448	11,536	30	698	349	73	146	131
Springfield	564	21,821	609,206	485	35,315	17,657	5,486	10,972	1,411
Stoughton	187	3,166	45,974	125	2,747	1,373	464	928	147
Swanzey	30	723	10,163	45	562	281	78	156	
About $\frac{1}{16}$									
Amherst	151	4,327	50,845	81	3,172	1,586	275	550	87
Andover	268	4,609	40,562	102	2,584	1,292	491	982	141
* Hancock	13	197	4,377	. . .	268	134	. . .	. . .	36
* Hubbardston	53	1,125	16,435	54	999	499	108	216	2
Northampton	184	6,968	172,618	140	10,920	5,460	1,080	2,160	431
Shrewsbury	37	788	16,579	40	981	490	116	232	61
Somerville	242	13,047	388,914	268	23,649	11,824	2,735	5,470	48
So. Scituate	51	2,433	14,329	31	853	429	98	196	67
* Uxbridge	116	2,266	22,236	107	1,353	676	284	568	2
Westfield	122	4,321	102,827	146	6,419	3,209	1,223	2,446	750
About $\frac{1}{15}$									
Ashby	48	1,011	10,947	27	742	371	39	78	42
† Deerfield	70	2,412	28,322	54	1,854	927	295	590	88
Greenfield	79	3,551	56,327	69	3,735	1,867	411	822	82
Lynnfield	39	539	6,177	41	414	207	202	404	28
Pittsfield	169	11,070	109,647	148	7,476	3,738	1,516	3,032	603
Sharon	75	1,269	15,749	38	1,905	502	107	214	12
Stow	48	620	7,213	37	486	243	99	198	17
			$2,619,105	3,118	$155,606	77,803	23,325	$46,650	5,056

Table VII. *Of Places where the Women pay from* $\frac{1}{11}$ *to* $\frac{1}{14}$ *of the Taxes.*

Towns.	1871.		1873.						1874.
	Women taxed.	Paid by them.	Whole Tax.	Women taxed.	Paid by them.	Equal in Polls.	Men who pay only a Poll-tax.	Amount.	Plurality for Governor.
About $\frac{1}{14}$									
Belmont	66	$4,328	$37,686	. . .	$2,664	1,332	. . .	. . .	49
* Chelmsford	79	1,723	26,371	46	1,875	937	310	$620	8
* Leicester	101	2,316	22,658	64	1,628	814	322	644	26
Sherborn	39	1,074	11,688	41	809	404	79	158	59
Taunton	392	18,164	261,821	283	18,265	9,132	3,241	6,482	204
Wayland	49	1,085	17,583	38	1,242	621	224	448	40
Worcester	780	67,033	833,218	745	63,283	31,641	8,980	17,960	524
About $\frac{1}{13}$									
Dartmouth	76	2,511	30,159	53	2,333	1,666	163	326	75
Fairhaven	66	1,171	23,034	. . .	1,799	899	. . .	. . .	41
Kingston	104	2,714	7,256	51	549	274	129	258	21
* Leominster	120	2,953	52,649	112	3,837	1,918	628	1,256	320
Marshfield	85	1,568	18,235	87	1,398	699	121	242	53
Princeton	31	373	14,411	32	1,136	568	79	158	30
Salem	963	50,108	490,041	399	36,964	18,482	3,983	7,966	113
*† Templeton	104	2,719	26,671	81	1,897	948	312	624	21
* Wakefield	127	2,841	79,676	108	5,517	2,758	1,215	2,430	24
Waltham	187	8,943	125,118	218	8,935	4,467	1,730	3,460	200
Wilmington	26	641	8,357	25	658	329	86	172	3
About $\frac{1}{12}$									
* Barre	109	2,251	29,026	102	2,264	1,132	249	498	41
Bellingham	41	567	8,816	54	735	367	110	220	
Chelsea	289	16,045	318,641	399	25,725	12,862	3,330	6,660	304
Greenwich	20	600	6,366	17	538	269	63	126	15
Marshfield	51	778	16,989	72	1,433	716	265	530	87
Milford	199	7,598	106,940	244	8,871	4,435	1,513	3,026	116
North Andover	143	4,888	34,068	. . .	2,985	1,492	. . .	. . .	11
Swampscott	23	1,321	30,078	51	2,444	1,222	274	548	4
Townsend	49	1,011	25,897	68	2,019	1,009	34	68	40
Tyringham	5	197	3,911	15	337	168	25	50	1
West Springfield	58	1,831	44,966	74	3,705	1,852	544	1,088	83
About $\frac{1}{11}$									
Boxford	30	601	10,237	24	924	462	64	128	33
Hingham	168	5,497	44,502	145	3,952	1,976	509	1,018	106
Manchester	56	1,566	18,108	. . .	1,684	842			
Marblehead	197	7,470	85,777	221	7,950	3,975	1,214	2,428	151
Medway	94	2,811	36,128	110	3,080	1,540	387	774	2
Peabody	156	8,383	107,478	. . .	9,740	4,870	. . .	. . .	95
Pepperell	75	1,526	11,608	49	1,034	517	166	332	6
Westboro'	107	2,823	38,104	115	3,049	1,524	505	1,010	134
* Westminster	46	739	21,243	87	1,978	989	141	282	67
			$3,085,515	4,230	$249,236	124,618	30,995	$61,990	3,107

Table VIII. *Of Places where the Women pay from* $\frac{1}{8}$ *to* $\frac{1}{10}$ *of the Taxes.*

Towns.	1871.		1873.						1874.
	Women taxed.	Paid by them.	Whole Tax.	Women taxed.	Paid by them.	Equal in Polls.	Men who pay only a Poll-tax.	Amount.	Plurality for Governor.
About $\frac{1}{10}$									
Boston, Ward 1	. . .	. . .	. . . . .	547	$30,030	15,015	6,077	$12,154	330
" 2	. . .	. . .	. . . . .	208	29,019	14,507	4,959	9,918	1,785
" 3	. . .	. . .	. . . . .	211	27,507	13,753	3,695	7,390	642
" 4	. . .	. . .	. . . . .	272	133,294	66,647	2,534	5,068	262
" 5	. . .	. . .	. . . . .	141	82,218	41,107	1,268	2,536	380
" 6	. . .	. . .	. . . . .	571	248,089	124,044	2,390	4,780	‡ 480
" 7	. . .	. . .	. . . . .	369	26,048	13,024	6,637	13,274	1,036
" 8	. . .	. . .	. . . . .	208	42,360	21,180	2,983	5,966	259
" 9	. . .	. . .	. . . . .	493	127,441	63,720	3,290	6,580	93
" 10	. . .	. . .	. . . . .	436	73,229	36,614	3,156	6,312	254
" 11	. . .	. . .	. . . . .	622	117,053	58,526	2,986	5,972	39
" 12	. . .	. . .	. . . . .	620	45,229	27,614	5,666	11,332	236
" 13	. . .	. . .	. . . . .	129	14,171	7,085	2,231	4,462	482
" 14	. . .	. . .	. . . . .	488	65,112	32,556	2,826	5,652	14
" 15	. . .	. . .	. . . . .	400	64,265	32,132	4,232	8,464	708
" 16	. . .	. . .	. . . . .	594	78,706	39,353	2,684	5,368	13
W. Roxbury, " 17	. . .	. . .	. . . . .	329	45,069	22,834	1,439	2,878	281
Brighton, " 19	. . .	. . .	. . . . .	110	12,734	6,367	972	1,944	112
Charlest'n, " 20	. . .	. . .	. . . . .	116	11,631	5,815	2,209	4,418	438
" 21	. . .	. . .	. . . . .	156	13,200	6,600	2,155	4,310	167
" 22	. . .	. . .	. . . . .	204	9,681	4,840	2,026	4,052	293
Boston, with annexations . . .	6,392	$370,893	$12,045,902	7,214	$1,296,693	648,346	66,415	$132,830	$ 8,304
Needham . . .	160	4,463	58,879	182	5,475	2,737	566	1,132	84
Orleans . . .	42	855	9,426	. . .	904	452	. . .	. . .	96
Petersham . .	40	1,110	9,699	43	942	471	67	134	16
About $\frac{1}{9}$									
Enfield	19	1,482	8,997	27	1,007	503	. . .	. . .	35
Hull	7	265	5,194	13	582	291	15	30	‖ 3
* Northboro' . .	51	1,384	22,126	60	2,129	1,064	114	228	53
About $\frac{1}{8}$									
Newburyport . .	481	23,794	159,421	309	19,761	9,880	1,874	3,748	27
N. Reading . .	46	1,142	7,501	37	909	454	. . .	. . .	56
Dedham . . .	307	13,920	83,581	140	11,024	5,512	872	1,744	66
Mendon . . .	49	1,074	9,882	42	1,241	620	106	212	15
About $\frac{1}{7}$									
Brookline . . .	254	30,852	330,804	159	49,028	24,514	921	1,842	22
Watertown . .	111	7,292	94,177	65	13,164	6,582	840	1,680	103
About $\frac{1}{6}$									
Berkley . . .	24	220	4,787	16	822	411	52	104	72
Cohasset . . .	166	5,446	26,821	143	4,271	2,135	167	234	74
Stockbridge . .	73	4,393	24,608	78	4,277	2,138	172	344	51
About $\frac{1}{5}$									
* Concord . . .	150	3,852	30,401	100	5,916	2,958	318	636	62
Cheshire . . .	25	893	16,396	26	3,433	1,716	152	304	78
Falmouth . . .	46	1,844	20,995	52	4,296	2,148	268	536	120
Newton . . .	720	51,634	384,089	675	77,033	38,516	2,034	4,068	366
			$13,353,686	9,381	$1,502,907	751,453	74,953	$149,906	9,703

‡ The vote for Governor was a tie. This is the plurality for Lieut. Governor.
§ The plurality for Lieut. Governor in the whole city was 4,229.
‖ There was a tie vote for Governor. Harris, member of Congress, had 3 plurality.

Recapitulation.

Towns.	1871.		1873.						1874.
	Women taxed.	Paid by them.	Whole Tax.	Women taxed.	Paid by them.	Equal in Polls.	Men who pay only a Poll-tax.	Amount.	Plurality for Governor.
Table I.			$37,620	5	$272	136	36	$72	92
" II.			167,661	124	3,219	1,609	2,524	5,048	848
" III.			773,079	413	17,339	8,669	8,128	16,256	1,025
" IV.			445,876	497	12,979	6,489	2,300	4,600	1,037
" V.			606,867	1,007	25,043	12,521	5,172	10,344	1,962
" VI.			2,619,105	3,118	155,606	77,803	23,325	46,650	5,056
" VII			3,085,515	4,230	249,236	124,618	30,995	61,990	3,107
" VIII.			13,353,686	9,381	1,502,907	751,453	74,953	149,906	9,703
Totals 163 Towns			$21,089,409	18,775	$1,966,601	983,300	147,433	$294,866	22,830

Note to Page 20.

House Document No. 428, referred to on this page, though dated May 8, 1871, is responsive to an order passed March 15, 1871; and was, therefore, very probably based on the Assessors' valuations made in May, 1870. This makes no difference, however, in the results stated in the text, as the women paid more than one-twelfth of all the sums raised by taxation, and very nearly one-eleventh of the entire tax on property in 1870. (Aggregate Polls, &c., 1870, p. 25.)

The principal object of the pamphlet is to prove that the taxation of women, be it more or less, is unconstitutional.

The exact amount of taxes, or the precise number of women taxed, cannot possibly be obtained by any one, by any amount of labor; and no such extreme nicety is needed for the purposes of the argument. I can, for example, prove how much is received in Massachusetts from duties; but how many of the dutiable articles are actually consumed in Massachusetts, or how many women consume them, no one can tell, and it is of no real importance to be able to prove. I content myself with showing that about twenty millions are collected here every year; and, after making every allowance for the fact that Boston is one of the great distributing markets, the inference seems to be fair that the women alone pay millions through this channel.

So in reference to the taxation under our State laws. It is very clear that the Assessors in different towns have made up their returns on different principles. Some have given me only the number of women who are taxed directly; others have included those who are taxed through Trustees, the trust being plainly declared or known to the Assessors to be for women; but all reference to a large amount of property really belonging to women, and which is taxed to Trustees, is omitted, because the books fail to show, and the Assessors do not know, for whom the trust really is. Exactness, therefore, either in the number of women taxed or the amount paid by them, is unattainable by any one, and it is of no real importance to the argument. I have, however, diligently tried to make my statements and estimates within the truth; and I believe such will prove to be the fact.

It may be well to add that throughout my tables I have considered the poll-tax as $2, — the highest sum allowed by law, — consequently, the figures in the columns marked "Equal in Polls" are intended to be as nearly as possible one-half the amount paid by the women as taxes, and the figures in the columns marked "Amount" are intended to be just double the number of the men who paid only a poll-tax.

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